Appendix H
Comment Letters and Responses to Comments

No. 1

From: Frank Michny
To: Hal Candee
Date: 7/9/07 10:27:28 AM
Subject: Re: Q's re USBR EA/FONSI on new Dam across SJ River & Use of CVPIA Funds for construction costs

Hal - we have developed preliminary answers to the questions you sent - if you still wnat top go over them please indicate some time periods we can call you and discuss them. I am not providing any written responses to these - all written responses will be via the EA review/comment process.

>>> "Candee, Hal" <hcandee@nrdc.org> 7/2/2007 8:57:51 PM >>>
Frank and John:

Thank you for sending us the Draft EA/Initial Study (and the separate volume of attachments) for the Bureau's proposal to spend up to $100 million of CVPIA Restoration Funds to replace a dam owned by a non-federal water district because it will have incidental benefits to a state wildlife refuge. It would have been helpful to the public if the Bureau's document had more accurately described the EA as a proposal to build a new dam across a major river, rather than a mere "conveyance of refuge water supply," but hopefully you are taking other steps to reach out to the public about this fact. } 1-1

We are working our way through the extensive materials and preparing our comments (due in 7 days according to your notice below), but some fundamental threshold questions have come up that we thought we should ask now in hopes that you could provide us the answers before the comment deadline. Our apologies if this information is already available - we have checked with a few sources and were not able to obtain definite answers:

1. Has the Bureau ever relied on a FONSI for a dam-building project before this? Please give us some examples if possible. Thank you. } 1-2

2. If CVPIA funds are to used for CVPIA purposes, yet Section 3408(e) of CVPIA expressly prohibits the construction of water storage facilities under CVPIA, how can you plan to use any CVPIA funds for the draft EA's locally-preferred alternative of building a new dam? } 1-3

3. One of the potentially significant environmental impacts of this entire project turns on how much of the CVPIA Restoration Funds will be used for this project as opposed to all other restoration and habitat actions in the Central Valley watershed. However, we can find no evidence in the document that the Bureau is prepared to say whether $1.00 of CVPIA funds will be used or $100 million of CVPIA funds will be used. When do you plan to provide that critical information to the public? } 1-4

Email from Hamilton Candee, Senior Attorney, Co-Director, Western Water Project, Natural Resources Defense Council, Dated July 2, 2007

1-1 As stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the Environmental Assessment/ Initial Study (EA/IS), the document "evaluates the potential effects of the alternatives to provide reliable year-round deliveries to the Mendota Wildlife Area (Mendota WA)." The primary purpose as stated under the Purpose and Need section of the same chapter states, "The primary purpose for this proposed action is to provide reliable year-round deliveries to the Mendota Wildlife Area (Mendota WA)." Central California Irrigation District (CCID) lists the redesign or replacement of Mendota Dam as a specific objective of the proposed action under the California Environmental Quality Act (CEQA). A wide range of alternatives were considered as described in Chapter III, Description of Alternatives. As shown in Table III-1, Summary of Alternative Screening Results, Mendota Wildlife Area, 18 alternatives and subalternatives were evaluated including the No Action/Project Alternative. Some of these alternatives (summarized in Table III-1) were screened early in the process because the alternative would not fully provide Level 2 or 4 supplies, would create substantial environmental concerns, or would have excessive cost. Appendix B, Addendum to 1995 Decision Document – Mendota Wildlife Area Conveyance Alternatives, presents a review of potential alternatives and the reasons for their being considered feasible or infeasible. As presented in Chapter III, Description of Alternatives, the following four alternatives were identified as feasible and were evaluated in detail for potential environmental impacts if implemented:

- MEN-5 – Replace Dam
- MEN-7 – Rehabilitate Existing Dam
- MEN-9B – Convey Full Level 4 Water Using Westlands Water District (WWD) Facilities
- MEN-12 – Convey Level 4 Water Supplies Using Westlands Water District Facilities When Mendota Dam Is Dewatered

Of the alternatives selected for further analysis, Alternative MEN-12 was considered a feasible alternative and evaluated in the same level of detail as the other three alternatives listed above. This particular alternative was included for full consideration and was considered feasible even though its implementation would be reliant on the existing Mendota Dam. Alternative MEN-9B, which would use

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Email from Hamilton Candee, Continued

1-1, cont'd existing WWD facilities to convey supplies, was also carried forward and evaluated in detail. Other alternatives using WWD facilities were considered technically feasible, but were eliminated because of excessive cost or capacity constraints.

The document clearly discloses that the locally preferred alternative is to replace the existing dam with a new dam located approximately 400 feet downstream of the existing facility (MEN-5). Given the proposed facility will operate in essentially the same manner (except that periodic dewatering associated with the existing dam for safety reviews will not be required), the operational effects and presence of such a facility will be very similar to the existing condition. The anticipated construction-related impacts of implementing MEN-5 and the other feasible alternatives are presented in Chapter IV, Affected Environment and Environmental Consequences.

1-2 The EA/IS evaluates a range of potential alternatives, including the construction of a new dam downstream from the existing Mendota Dam (MEN-5). Chapter IV, Affected Environment and Environmental Consequences, identifies all anticipated significant impacts associated with the proposed new facility, as well as proposed mitigation measures to lessen the relatively few anticipated potential impacts to a level that is less than significant. The new dam is relatively close to the existing dam, and potential impacts associated with construction and operation of the dam are all anticipated to be less than significant with the implementation of mitigation measures.

The U.S. Bureau of Reclamation (Reclamation) and CCID believe an EA/IS, and ultimately a Finding of No Significant Impact (FONSI) and Negative Declaration, are appropriate to support implementation of the locally preferred alternative and other proposed alternatives. The two agencies have determined it is not necessary to prepare an environmental impact statement (EIS) or an environmental Impact report.

In the EA/IS, the scale and potential impacts associated with the implementation of MEN-5 and mitigation to reduce all potentially significant impacts to a less than significant level have been disclosed. Comparison to a "new…Shasta Dam" with respect to downstream location and height and the need to complete an EIS is not appropriate, given the vastly smaller scale of the proposed new Mendota Dam, with respect to both environmental impacts and

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Email from Hamilton Candee, Continued

1-2, cont'd relative size (18-foot-high, 180-foot-long [Project Alternatives section in Chapter III, Description of Alternatives] new dam versus the 600-foot-high, 3,500-foot-wide Shasta Dam and associated important downstream fisheries habitat). Additionally, Reclamation has used an EA to satisfy National Environmental Policy Act (NEPA) requirements in a dam replacement project in the past where appropriate and no significant impacts were identified given the implementation of appropriate mitigation measures.

On October 26, 2000, an EA and associated FONSI for Clear Lake Dam Modification were published by Reclamation (http://www.usbr.gov/mp/clear_lake/). The proposed action alternative, evaluated in the EA and selected in the FONSI, was to modify the dam site by constructing a roller-compacted concrete embankment structure immediately downstream from the existing embankment structure.

1-3 The existing Mendota Dam and the proposed replacement dam are water regulation facilities, not storage facilities, according to Title 23 of the California Code of Regulations (CCR) Sections 657 and 658, which define regulation and storage respectively. Title 23, Division 3, CCR, Section 657 states, "Regulation of water means the direct diversion of water to a tank or reservoir in order that the water may be held for use at a rate other than the rate at which it may be conveniently diverted from its source. For licensing purposes, refill, in whole or in part, held in a tank or reservoir for less than 30 days shall be considered regulation of water." As long as the amount of water in the Mendota Pool at the end of a 30-day period does not exceed the amount at the beginning of that period (taking evaporation and seepage into account), no storage has occurred.

1-4 Several commentors expressed concerns related to the use of Central Valley Project Improvement Act (CVPIA or Act) funds being used to fund all or a portion of the proposed Mendota Dam replacement alternative. Similarly, some commentors related their interpretation of the CVPIA that water storage projects are prohibited from being constructed under Section 3408(e) of the Act. Concerns were also raised that the use of such funding would reduce the amount of money available for a "drainage settlement agreement."

As stated in the Purpose and Need section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, "the purpose for this proposed action is to provide reliable year-round water

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Email from Hamilton Candee, Continued

1-4, cont'd

deliveries to Mendota WA. The need for this proposed action is to facilitate optimal management of Mendota WA and to address the associated operation, maintenance, and infrastructure conditions that preclude and/or restrict reliable year-round water deliveries, and to minimize the frequency and duration of periods when sufficient supplies are not available to Mendota WA." Among the wide range of alternatives evaluated, a decision has not been made regarding the most cost-effective manner of ensuring reliable water supplies to Mendota WA. As also stated in the same chapter of the EA/IS, it is recognized that Central Valley Project (CVP) water users who currently rely on the existing dam and its operation for water supplies would also benefit from replacing the existing dam.

Reclamation is currently evaluating the potential cost share and funding sources. At this time, Reclamation's portion of the overall cost share for the locally preferred alternative has not yet been determined and will be negotiated with the other users in accordance with current Reclamation cost allocation guidelines. Accordingly, the relative amount of funding that would be used to support construction (in relation to the overall CVPIA restoration fund) is not yet known. Given many other restoration efforts across the CVP area are continuing to be evaluated and negotiated, including how best to implement drainage-related agreements, it is also not possible to evaluate the relative costs and benefits of the proposed project and alternatives in relation to the overall fund.

In addition, see Response to Comment 1-3.

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4. It appears that most of this draft EA was written before a Settlement was reached in NRDC v. Rodgers regarding restoration of the San Joaquin River, and it appears that little if any consideration has been given in this document to such related questions as:

a) will the construction of a replacement dam at Mendota affect the timing and other issues related to the proposed Mendota Pool Bypass called for by the Settlement?

b) will the availability of year round flows between Friant Dam and Mendota Pool pursuant to the Settlement create a new set of opportunities for meeting water supply shortages for the Mendota Wildlife Area that are more cost-effective and environmentally beneficial than any of the alternatives analyzed in this document?

c) given that the entire Settlement could be voided and the case returned to trial if the pending legislation in Congress is not passed this year, is it premature for the Bureau to move ahead with a new dam at Mendota that has no fish passage included, given the effect that such a decision could have on meeting future Bureau obligations on the River if there is no Settlement?

1-5

Given the rather important potential connection between the Settlement and this proposed project at Mendota, would you be willing to consider a modest additional extension of your July 9th comment deadline to allow time for NRDC to meet with your Mendota project manager and Jason Phillips of your SJR Settlement team to compare notes on how this new dam-building project at Mendota Pool will affect implementation of the SJR Settlement? We believe such an informal meeting might help address a number of issues that will otherwise have to be addressed through formal comments and formal responses to comments, etc. Thank you for considering this request.

1-6

5. The Bureau recently release environmental documents on a proposed GW bank at or near Mendota Pool by a prominent Westlands landowner (Meyers storage project). That appears to be extremely close to the area affected by the Mendota Wildlife Area water supply alternatives analyzed in this document, and potentially an alternative source of supply - or perhaps a potentially complicating factor - for this entire project. Where is the analysis of how the two projects interconnect?

1-7

6. One of the alternatives considered in this draft EA involves water being supplied through infrastructure related to Westlands Water District. This is interesting since the Bureau is simultaneously urging the public to consider massive changes in Westlands as part of a

1-8

Email from Hamilton Candee, Continued

1-5

a Because the details of the Friant/NRDC Settlement Agreement have not been finalized, an evaluation of potential effects related to the proposed Mendota Pool Bypass and the potential to consider the flows between Friant Dam and the pool as an alternative water supply for Mendota WA would be premature and speculative at this time. As the commentor is aware, numerous ongoing policy discussions and proposed projects within the San Joaquin River Basin affect or can be affected by any proposed action. Reclamation remains committed to coordinating the proposed action in the context of the current and proposed operational and policy arena.

b See Response to Comment 1-5(a).

c As described in the Response to Comment 1-1, the primary purpose for the proposed action "is to provide reliable year-round deliveries to the Mendota Wildlife Area…" Accordingly, Reclamation continues to be committed to implementing 3406(b) of the CVPIA, requiring the Secretary of the Interior to provide reliable year-round supplies to refuges and wildlife areas within the CVP area, including Mendota WA. As the commentor is aware, numerous ongoing policy discussions and proposed projects within the San Joaquin River Basin affect or can be affected by any proposed action. Reclamation remains committed to coordinating the proposed action in the context of the current and proposed operations and policies.

As proposed and described in Chapter III, Description of Alternatives, "the passage of anadromous fish either upstream or downstream of the existing dam is a topic of study in the San Joaquin River Restoration Program, the proposed new dam would be designed so that it could be retrofitted with a fish passageway in the future, as determined necessary." The EA/IS has been revised to include additional information on the design and environmental review of proposed fish passage facilities.

The details of the Friant/NRDC Settlement Agreement have not yet been finalized, and an assessment of cumulative impacts would be speculative and premature at this time.

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Email from Hamilton Candee, Continued

1-6 The comment period was extended from June 29, 2007 to August 3, 2007, to allow additional time for public comment. The draft EA/IS was initially released for public review and comment on May 18, 2007. The comment period was extended three times so that interested parties had sufficient time to submit comments.

1-7 A FONSI was issued by Reclamation in May 2005, for the proposed Meyers Farm Water Banking Project in Mendota, California, that was associated with the EA, which was also completed by Reclamation in May 2005. As stated on pages 2 and 3 of the FONSI, the proposed project will have no impact on surface water deliveries, because "No additional amount of water will be added to, or taken from, the (Mendota) Pool. Diversion of water from the Pool for recharge by the Bank will have no effect on water delivery via the Pool." In addition, potential impacts associated with induced seepage will be mitigated through the daily water budget for the pool to monitor seepage losses or recharges of waters influenced by Bank pumping or Bank recharge activities. Seepage losses would be allocated to the Bank, and pumping would be suspended if groundwater elevations measured in monitoring wells of the recharge ponds equal or exceed the stage measured in the Mendota Pool.

The proposed project was also considered to have "no impact on surface water quality as a result of diverting CVP water from the Pool. However, extraction of water from the Bank could affect surface water quality in the Pool…The surface water mixing model, along with water quality data from the monitoring program, would be used to manage potential salinity increases in the Pool due to extraction from the Bank." Using the mixing model to determine the timing and volume of extraction well pumping, salinity concentrations in the southern portion of the Mendota Pool would not exceed criteria in Reclamation's water supply contracts. In addition, water would not be pumped to the Pool if trace elements such as arsenic, boron, molybdenum, and selenium (caused by wastewater contamination at Spreckels Sugar Company) are present in exceedance of the RWQCB Water Quality Objectives published in the Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin.

Additional potential impacts are identified as less than significant and described on page 4 of the Meyers Farm Water Banking Project FONSI.

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comprehensive drainage solution, including reallocating some of Westlands water supplies to the FWS for environmental purposes such as refuge water supplies. Yet again, it appears most of this draft EA was written before that proposal was put on the table, and it is not clear that the pros and cons of using Westlands as a water supply source for the Mendota Wildlife Area rather than giving CCID an expensive new dam from the federal government has been fully analyzed. Again, would the Bureau consider a modest extension of the comment deadline so we could meet informally with your staff handling the Westlands proposal and your staff handling this project to see if potential synergies (or conflicts) have already been fully considered? 1-8, cont'd

Thank you for considering these questions and your any prompt answers you can provide. 1-9

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Email from Hamilton Candee, Continued

1-8 A wide range of alternatives were considered and described in Chapter III, Description of Alternatives. As shown in Table III-1, Summary of Alternative Screening Results, Mendota Wildlife Area, 18 alternatives and subalternatives were evaluated, including the No Action/Project alternative.

Several alternatives were identified using existing or proposed WWD facilities. Two alternatives, one of which had three subalternatives (MEN-9A, MEN-9B, and MEN-9C; MEN-12), were evaluated that would convey water to the Fresno Slough to meet year-round Level 4 water supply requirements using WWD facilities or land contained in WWD (Appendix B, page 4). Two of the alternatives in the series (MEN-9A and MEN-9C) were eliminated from consideration because of capacity constraints within WWD facilities and excessive cost, respectively (Alternatives Considered but Eliminated from Detailed Study section in Chapter III, Description of Alternatives, of the EA/IS). As presented in Chapter III, Description of Alternatives, of the EA/IS, Alternatives MEN-9B and MEN-12 were deemed to be feasible and were carried forward for further analysis.

Also, see Response to Comment 1-5(c).

1-9 See Response to Comment 1-6.

No. 2

Email from Hamilton Candee, Senior Attorney, Co-Director, Western Water Project, Natural Resources Defense Council, Dated July 31, 2007 and Correspondence from The Bay Institute, Dated July 30, 2007

From: "Candee, Hal" <hcandee@nrdc.org>
To: "Kirk Rodgers" <KRODGERS@mp.usbr.gov>, <scervantes@mp.usbr.gov>, <CJACHENS@mp.usbr.gov>, "Frank Michny" <FMICHNY@mp.usbr.gov>
Date: 7/31/07 9:10:27 AM
Subject: Comments on Draft EA/IS -- Conveyance of Refuge Water Supply (S. San Joaquin Valley Study Area -- Mendota WA)

Attached please find the Comments of NRDC and The Bay Institute on the referenced Draft EA/IS (for the proposed new Mendota Dam).
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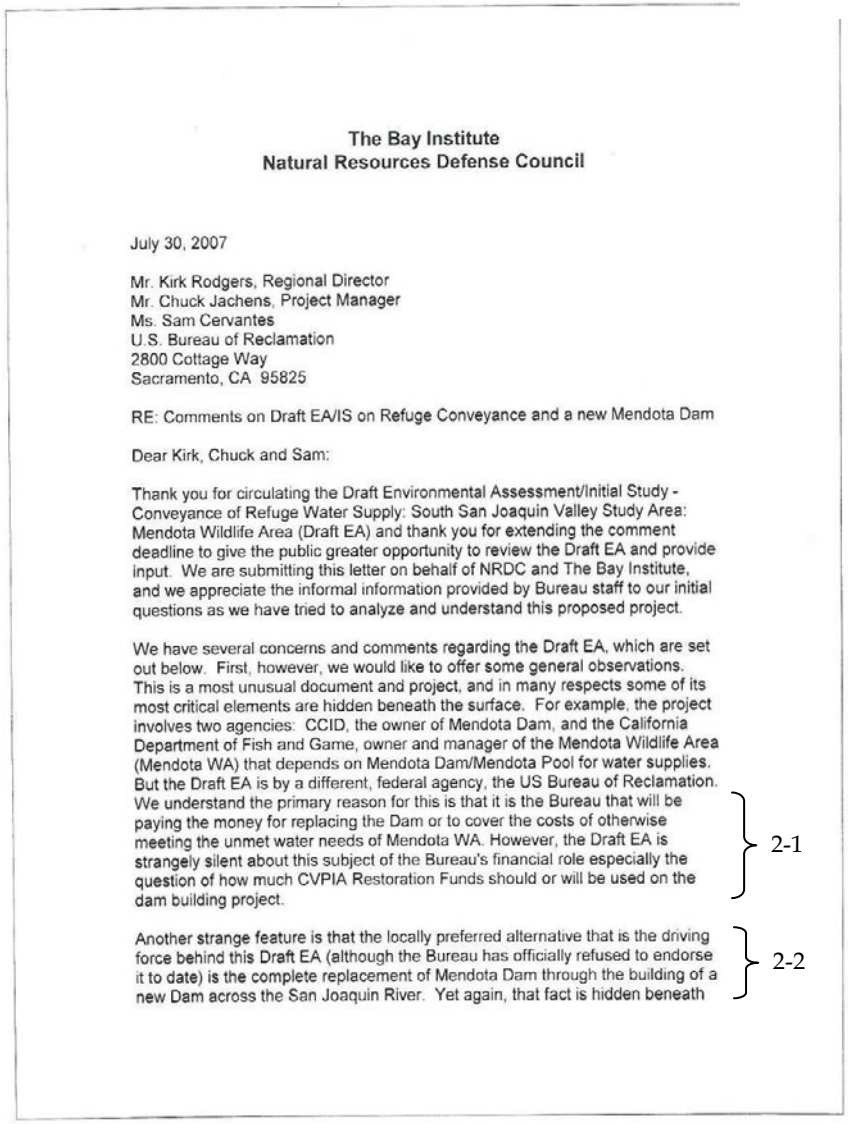
No. 2



The Bay Institute
Natural Resources Defense Council

July 30, 2007

Mr. Kirk Rodgers, Regional Director
Mr. Chuck Jachens, Project Manager
Ms. Sam Cervantes
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

RE: Comments on Draft EA/IS on Refuge Conveyance and a new Mendota Dam

Dear Kirk, Chuck and Sam:

Thank you for circulating the Draft Environmental Assessment/Initial Study - Conveyance of Refuge Water Supply: South San Joaquin Valley Study Area: Mendota Wildlife Area (Draft EA) and thank you for extending the comment deadline to give the public greater opportunity to review the Draft EA and provide input. We are submitting this letter on behalf of NRDC and The Bay Institute, and we appreciate the informal information provided by Bureau staff to our initial questions as we have tried to analyze and understand this proposed project.

We have several concerns and comments regarding the Draft EA, which are set out below. First, however, we would like to offer some general observations. This is a most unusual document and project, and in many respects some of its most critical elements are hidden beneath the surface. For example, the project involves two agencies: CCID, the owner of Mendota Dam, and the California Department of Fish and Game, owner and manager of the Mendota Wildlife Area (Mendota WA) that depends on Mendota Dam/Mendota Pool for water supplies. But the Draft EA is by a different, federal agency, the US Bureau of Reclamation. We understand the primary reason for this is that it is the Bureau that will be paying the money for replacing the Dam or to cover the costs of otherwise meeting the unmet water needs of Mendota WA. However, the Draft EA is strangely silent about this subject of the Bureau's financial role especially the question of how much CVPIA Restoration Funds should or will be used on the dam building project. 2-1

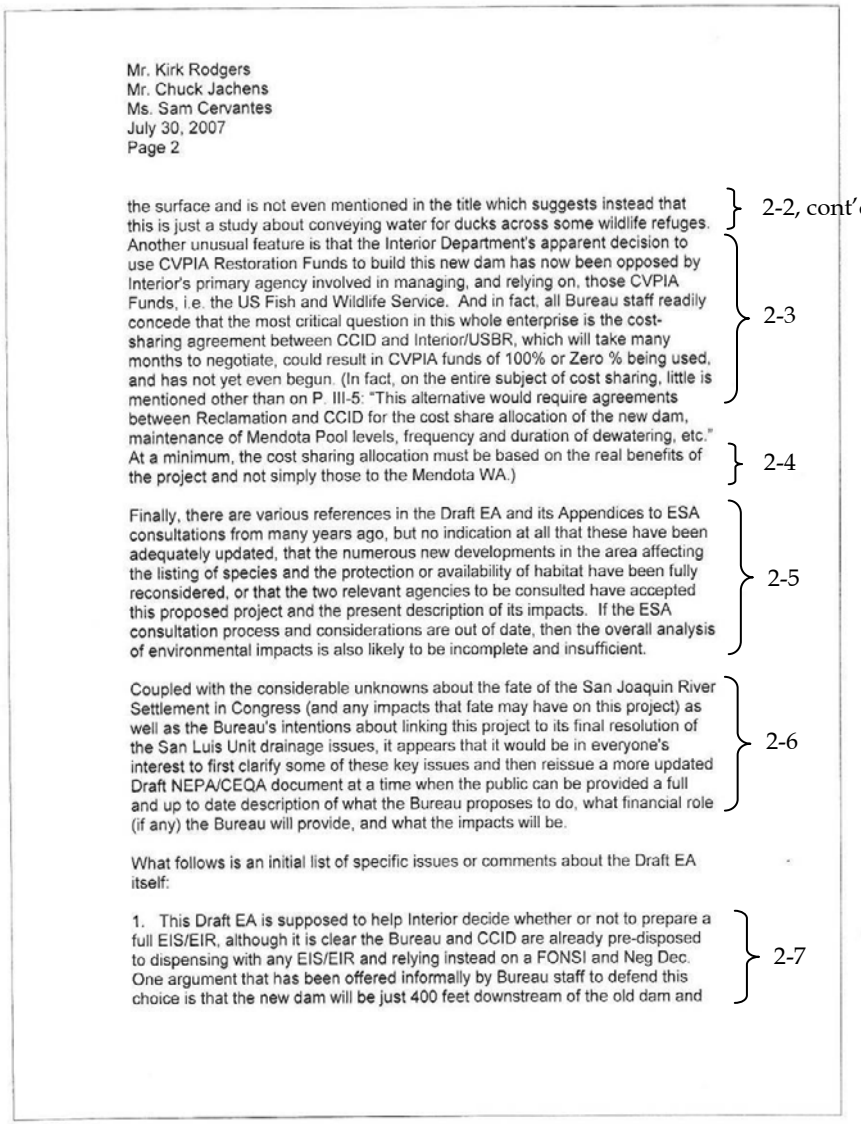
Another strange feature is that the locally preferred alternative that is the driving force behind this Draft EA (although the Bureau has officially refused to endorse it to date) is the complete replacement of Mendota Dam through the building of a new Dam across the San Joaquin River. Yet again, that fact is hidden beneath 2-2

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-1 See Response to Comment 1-4.

2-2 See Response to Comment 1-1.

No. 2



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the surface and is not even mentioned in the title which suggests instead that this is just a study about conveying water for ducks across some wildlife refuges. Another unusual feature is that the Interior Department's apparent decision to use CVPIA Restoration Funds to build this new dam has now been opposed by Interior's primary agency involved in managing, and relying on, those CVPIA Funds, i.e. the US Fish and Wildlife Service. And in fact, all Bureau staff readily concede that the most critical question in this whole enterprise is the cost-sharing agreement between CCID and Interior/USBR, which will take many months to negotiate, could result in CVPIA funds of 100% or Zero % being used, and has not yet even begun. (In fact, on the entire subject of cost sharing, little is mentioned other than on P. III-5: "This alternative would require agreements between Reclamation and CCID for the cost share allocation of the new dam, maintenance of Mendota Pool levels, frequency and duration of dewatering, etc." At a minimum, the cost sharing allocation must be based on the real benefits of the project and not simply those to the Mendota WA.)

2-2, cont'd

2-3

2-4

Finally, there are various references in the Draft EA and its Appendices to ESA consultations from many years ago, but no indication at all that these have been adequately updated, that the numerous new developments in the area affecting the listing of species and the protection or availability of habitat have been fully reconsidered, or that the two relevant agencies to be consulted have accepted this proposed project and the present description of its impacts. If the ESA consultation process and considerations are out of date, then the overall analysis of environmental impacts is also likely to be incomplete and insufficient.

2-5

Coupled with the considerable unknowns about the fate of the San Joaquin River Settlement in Congress (and any impacts that fate may have on this project) as well as the Bureau's intentions about linking this project to its final resolution of the San Luis Unit drainage issues, it appears that it would be in everyone's interest to first clarify some of these key issues and then reissue a more updated Draft NEPA/CEQA document at a time when the public can be provided a full and up to date description of what the Bureau proposes to do, what financial role (if any) the Bureau will provide, and what the impacts will be.

2-6

What follows is an initial list of specific issues or comments about the Draft EA itself:

1. This Draft EA is supposed to help Interior decide whether or not to prepare a full EIS/EIR, although it is clear the Bureau and CCID are already pre-disposed to dispensing with any EIS/EIR and relying instead on a FONSI and Neg Dec. One argument that has been offered informally by Bureau staff to defend this choice is that the new dam will be just 400 feet downstream of the old dam and

2-7

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-3 See Response to Comment 1-4.

2-4 See Response to Comment 1-4.

2-5 Prior to implementation of the selected proposed action, Reclamation will coordinate with the U.S. Fish and Wildlife Service (USFWS) to confirm that the Endangered Species Act (ESA) consultation process and considerations referenced in the Biological Resources section of Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS is sufficient to support project implementation. At this time, the Programmatic Biological Opinion (PBO) remains the anticipated means of ESA compliance. Reclamation and USFWS are confirming this approach, and formal reconsultation has not been required. The USFWS recommended that the contents of the PBO analysis be updated to reflect new information regarding listed species and potential occurrences in the project area; specifically, new information has been added regarding giant garter snake, California tiger salamander, and green sturgeon. The description of the dam replacement alternative (MEN-5), including the extent of potential impacts and the habitat conditions in the project area, remains approximately the same as described in the PBO. If information needs to be significantly changed or updated, Reclamation will reconsult, as necessary, and develop additional environmental documentation, as necessary, to satisfy NEPA, CEQA, and ESA requirements.

2-6 See Responses to Comments 1-5(a) and 1-5(c).

2-7 See Responses to Comments 1-2 and 1-3.

No. 2

won't significantly change the size of the pool/reservoir behind the dam. Presumably by such logic, the Bureau could build an entire new Dam several hundred feet below Shasta Dam and dispense with any full EIS so long as it was the same height as Shasta Dam. We believe neither that logic nor the analysis in this Draft EA meets the requirements of NEPA and CEQA, see 42 USC 4332(2)(C); 40 CFR 1508.3, 1508.27; Pub. Resources Code sections 21068, 21100, 21151; CEQA Guidelines sections 15065, 15382.

2-7, cont'd

2. The proposal to use CVPIA Restoration Funds on the locally preferred alternative of building a new 180 foot long dam across the San Joaquin River raises a threshold problem because such a use of CVPIA funds appears to be unauthorized under CVPIA. Section 3407(a) and (b) sets out very specific authorizations for use of these Restoration Funds, and it is hard to see how the proposed use of the Funds to build a new Dam for CCID meets either the 67% allocated to habitat restoration and improvement provisions, the up to 33% allocated to certain provisions of Section 3406(b), or the more general authorization in section 3407(b) for use of the funds to carry out the programs in the CVPIA. In fact, section 3408(e) of CVPIA provides explicitly that "this title does not and shall not be interpreted to authorize construction of water storage facilities...." Last time we checked, a dam is a "water storage facility." The Bureau's informal response to this concern is that, so long as they don't store any water behind Mendota Dam for more than 30 days, it does not meet the Bureau's definition of "storage" but instead means the Bureau is using it only as a "diversion facility." While this is very creative, we believe it misses the point. CVPIA wasn't written in terms of how the Bureau operates a facility after it has been built. The flat prohibition in CVPIA is on any storage "facility." Under the APA, the clear intent and purposes of CVPIA, and the governing case law, it cannot be seriously argued that the Bureau has the authority to spend CVPIA Restoration Funds on building a new dam regardless of whether its current plan is to use the dam for diversions, storage, congressional tours or a gigantic fish tank. If the plain meaning of the term "water storage facilities" does not include new dams, the Bureau will be hard pressed to explain what it does include.

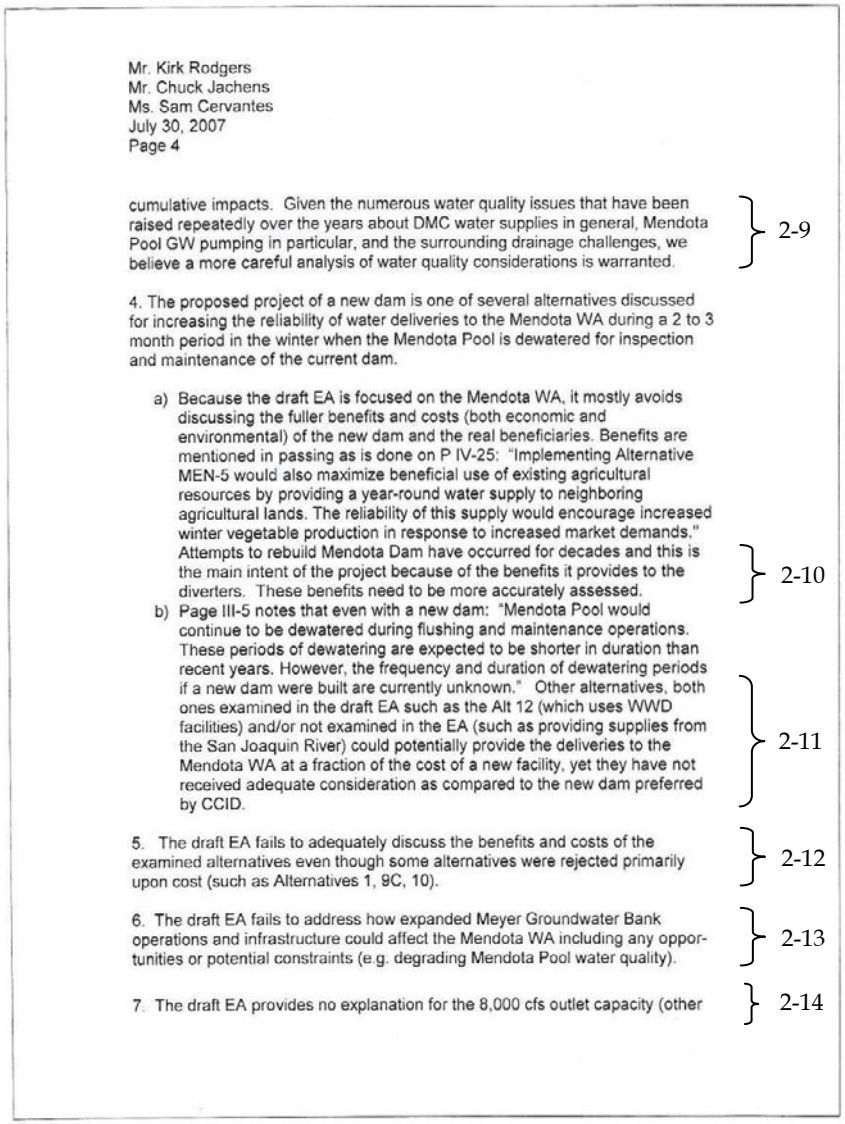
2-8

3. The EPA and others have raised questions about potential water quality issues, and the Draft EA does an inadequate job of analyzing the potential water quality impacts of meeting Mendota WA's remaining water supply needs through the different alternatives considered, especially the locally preferred alternative. Without an analysis of the comparative water quality impacts of the different alternatives, the public cannot fully assess the complete environmental impacts. Our concerns about potential water quality impacts are heightened by the unresolved nature of the proposed Meyers GW project and the ongoing questions about the activities of the Mendota Pool Pumpers, especially any

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-8 See Response to Comment 1-4.

No. 2



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cumulative impacts. Given the numerous water quality issues that have been raised repeatedly over the years about DMC water supplies in general, Mendota Pool GW pumping in particular, and the surrounding drainage challenges, we believe a more careful analysis of water quality considerations is warranted. } 2-9

4. The proposed project of a new dam is one of several alternatives discussed for increasing the reliability of water deliveries to the Mendota WA during a 2 to 3 month period in the winter when the Mendota Pool is dewatered for inspection and maintenance of the current dam.

a) Because the draft EA is focused on the Mendota WA, it mostly avoids discussing the fuller benefits and costs (both economic and environmental) of the new dam and the real beneficiaries. Benefits are mentioned in passing as is done on P IV-25: "Implementing Alternative MEN-5 would also maximize beneficial use of existing agricultural resources by providing a year-round water supply to neighboring agricultural lands. The reliability of this supply would encourage increased winter vegetable production in response to increased market demands." Attempts to rebuild Mendota Dam have occurred for decades and this is the main intent of the project because of the benefits it provides to the diverters. These benefits need to be more accurately assessed. } 2-10

b) Page III-5 notes that even with a new dam: "Mendota Pool would continue to be dewatered during flushing and maintenance operations. These periods of dewatering are expected to be shorter in duration than recent years. However, the frequency and duration of dewatering periods if a new dam were built are currently unknown." Other alternatives, both ones examined in the draft EA such as the Alt 12 (which uses WWD facilities) and/or not examined in the EA (such as providing supplies from the San Joaquin River) could potentially provide the deliveries to the Mendota WA at a fraction of the cost of a new facility, yet they have not received adequate consideration as compared to the new dam preferred by CCID. } 2-11

5. The draft EA fails to adequately discuss the benefits and costs of the examined alternatives even though some alternatives were rejected primarily upon cost (such as Alternatives 1, 9C, 10). } 2-12

6. The draft EA fails to address how expanded Meyer Groundwater Bank operations and infrastructure could affect the Mendota WA including any opportunities or potential constraints (e.g. degrading Mendota Pool water quality). } 2-13

7. The draft EA provides no explanation for the 8,000 cfs outlet capacity (other } 2-14

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-9 Concerns were expressed that water quality impacts to Mendota Pool were not considered in the EA/IS. It was suggested that the EA/IS assess the complete cumulative impacts to water quality, groundwater pumping, and exchanges in the Mendota Pool in relation to water quality, the quality of water delivered to Mendota WA, and the cumulative impacts of the proposed alternatives identified in the EA/IS. In addition, it was suggested that water quality be considered a criterion for determining significance and in determining the environmentally preferred alternative in the EA/IS.

Potential water quality impacts were considered in Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS, and "adverse effects to surface and groundwater quality" was listed and used as a criterion for determining significance in the Water Resources section.

As discussed under Water Quality, Operations, in the Water Resources section of Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS, because the preferred alternative is essentially replacing the existing Mendota Dam with a new structure downstream, operations will remain generally the same as under existing conditions, water quality near the Mendota Pool would not be anticipated to substantially change. Accordingly, the quality of the water that would be diverted would be of suitable quality for use at Mendota WA and for agricultural uses.

Therefore, regional water quality concerns, although of critical importance, were not considered to be a specific consequence of the implementation of any of the proposed alternatives.

2-10 As stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, the document "evaluates the potential effects of the alternatives to provide reliable year-round deliveries to the Mendota WA." The EA/IS states, "The primary purpose for this proposed action is to provide reliable year-round deliveries to the Mendota WA." It is recognized in the same section of the EA/IS that several contractors currently rely on the existing dam and its operation for access to all or a portion of their water supplies. In the Associated Local Needs and Objectives under CEQA section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, CCID lists "improve and provide reliable

No. 2

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-10, cont'd year-round deliveries and conveyance of water to and from Mendota Pool and beneficiaries (e.g. Mendota WA, Contract Water Users)" as a specific objective of the proposed action under CEQA.

2-11 See Response to Comment 1-1.

2-12 See Response to Comment 1-1.

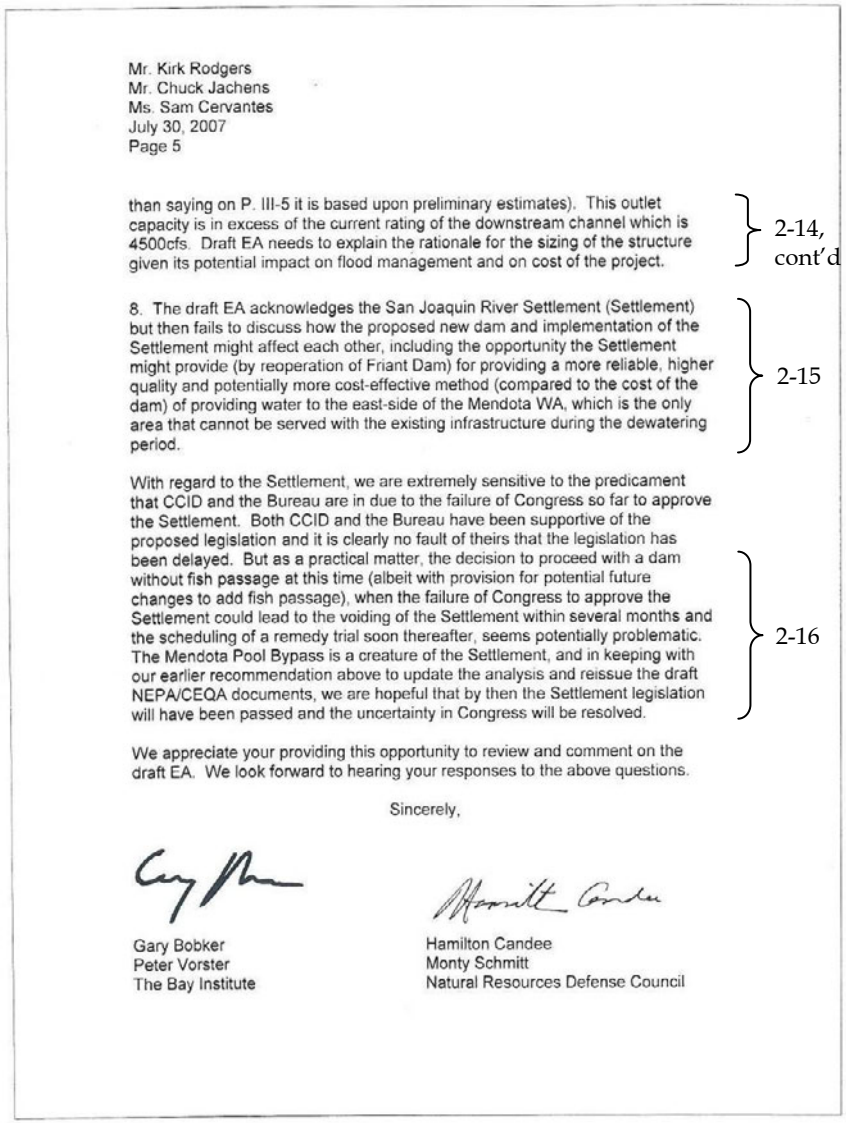
2-13 See Response to Comment 1-7.

2-14 Existing flow conditions at Mendota Dam are discussed in Appendix B of the EA/IS (for MEN-7) as follows: "Currently, flows down the San Joaquin River are split at the Chowcilla Bifurcation Structure, approximately 10 channel miles upstream from Mendota Dam. This facility is operated to allow a maximum flow of 2,500 cfs down the San Joaquin River…Fresno Slough, to the south, can receive over-flow from the Kings River up to a published capacity of 4,750 cfs." Taken together, the existing Mendota Dam structure was designed to accommodate a minimum combined flow of 7,250 cfs. This value (7,250 cfs) was rounded up to 8,000 cfs in the preliminary estimate for the replacement dam's outlet capacity.

In addition, considering the relative flat topography of the area and the limitation this creates on storage capacity, the Mendota Pool does not lend itself to functioning as a regulating reservoir during a flood event.

As required by the Division of Safety of Dams criteria, the maximum outlet capacity of the dam is calculated to prevent damage to the dam during a flood event, regardless of the rating of the down-stream channel. The final design would consider all relevant data, including flood flows and the rating of the downstream channel, to determine the appropriate outlet sizing.

No. 2



Mr. Kirk Rodgers
Mr. Chuck Jachens
Ms. Sam Cervantes
July 30, 2007
Page 5

than saying on P. III-5 it is based upon preliminary estimates). This outlet capacity is in excess of the current rating of the downstream channel which is 4500cfs. Draft EA needs to explain the rationale for the sizing of the structure given its potential impact on flood management and on cost of the project. 2-14, cont'd

8. The draft EA acknowledges the San Joaquin River Settlement (Settlement) but then fails to discuss how the proposed new dam and implementation of the Settlement might affect each other, including the opportunity the Settlement might provide (by reoperation of Friant Dam) for providing a more reliable, higher quality and potentially more cost-effective method (compared to the cost of the dam) of providing water to the east-side of the Mendota WA, which is the only area that cannot be served with the existing infrastructure during the dewatering period. 2-15

With regard to the Settlement, we are extremely sensitive to the predicament that CCID and the Bureau are in due to the failure of Congress so far to approve the Settlement. Both CCID and the Bureau have been supportive of the proposed legislation and it is clearly no fault of theirs that the legislation has been delayed. But as a practical matter, the decision to proceed with a dam without fish passage at this time (albeit with provision for potential future changes to add fish passage), when the failure of Congress to approve the Settlement could lead to the voiding of the Settlement within several months and the scheduling of a remedy trial soon thereafter, seems potentially problematic. The Mendota Pool Bypass is a creature of the Settlement, and in keeping with our earlier recommendation above to update the analysis and reissue the draft NEPA/CEQA documents, we are hopeful that by then the Settlement legislation will have been passed and the uncertainty in Congress will be resolved. 2-16

We appreciate your providing this opportunity to review and comment on the draft EA. We look forward to hearing your responses to the above questions.

Sincerely,

Gary Bobker
Peter Vorster
The Bay Institute

Hamilton Candee
Monty Schmitt
Natural Resources Defense Council

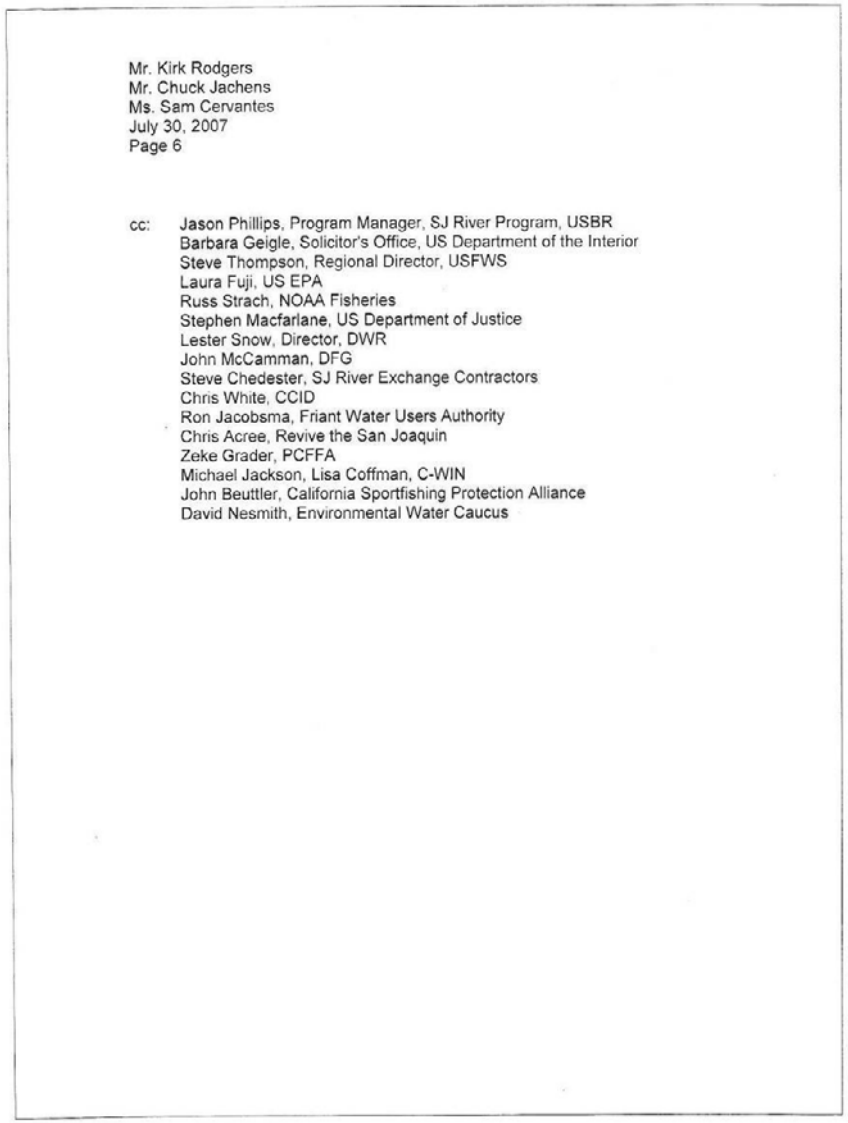
Email from Hamilton Candee and Correspondence from The Bay Institute, Continued

2-15 See Responses to Comments 1-5(a) and 1-5(c).

2-16 See Response to Comment 1-5(c).

No. 2

Email from Hamilton Candee and Correspondence from The Bay Institute, Continued



Mr. Kirk Rodgers
Mr. Chuck Jachens
Ms. Sam Cervantes
July 30, 2007
Page 6

cc: Jason Phillips, Program Manager, SJ River Program, USBR
Barbara Geigle, Solicitor's Office, US Department of the Interior
Steve Thompson, Regional Director, USFWS
Laura Fuji, US EPA
Russ Strach, NOAA Fisheries
Stephen Macfarlane, US Department of Justice
Lester Snow, Director, DWR
John McCamman, DFG
Steve Chedester, SJ River Exchange Contractors
Chris White, CCID
Ron Jacobsma, Friant Water Users Authority
Chris Acree, Revive the San Joaquin
Zeke Grader, PCFFA
Michael Jackson, Lisa Coffman, C-WIN
John Beuttler, California Sportfishing Protection Alliance
David Nesmith, Environmental Water Caucus

No. 3

Email from Lisa Coffman, Executive Director, California Water Impact Network, Dated August 2, 2007

From: Lisa Coffman <lisabcoffman@gmail.com>
To: Kirk Rodgers <KRODGERS@mp.usbr.gov>, <scervantes@mp.usbr.gov>, "CJACHENS@mp.usbr.gov" <CJACHENS@mp.usbr.gov>, Frank Michny <FMICHNY@mp.usbr.gov>
Date: 8/2/07 2:56:33 PM
Subject: C-WIN comments on the Draft EA/Initial Study on ³Conveyance of Refuge Water Supply South of San Joaquin Valley Study Area."

Attached please find the California Water Impact Network's comments on the Draft EA/Initial Study on ³Conveyance of Refuge Water Supply South of San Joaquin Valley Study Area."

Lisa Coffman
Executive Director
California Water Impact Network
P.O. Box 878
Shaver Lake, CA 93664
(t)559-477-4914
(f)559-761-0744

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CC: <Dale_Garrison@fws.gov>, <John_Brooks@fws.gov>, <Dan_Walsworth@fws.gov>, <Cesar_Blanco@fws.gov>, <John_Engbring@fws.gov>, <Joy_Winckel@fws.gov>, <Bob_Parris@fws.gov>, <Dennis_Woolington@fws.gov>, <Kim_Forrest@fws.gov>, <ACANDLISH@mp.usbr.gov>, Jason Phillips <JPHILLIPS@mp.usbr.gov>, <Fujii.Laura@epamail.epa.gov>, <Yale.Carolyn@epamail.epa.gov>, <Schwinn.Karen@epamail.epa.gov>, <Russ.Strach@noaa.gov>, <christopher.keifer@noaa.gov>, Maria Rea <Maria.Rea@noaa.gov>, gary bobker <bobker@bay.org>, Peter Vorster <vorster@bay.org>, "Schmitt, Monty" <mschmitt@nrdc.org>, "Poole, Kate" <kpoole@nrdc.org>, "Ronald D. Jacobsma" <rjacobsma@friantwater.org>, William Luce <wluce@friantwater.org>, Chris Acree <chris.acree@comcast.net>, David Nesmith <c@davidnesmith.com>, "Beuttler, John" <jbeuttler@aol.com>, Michael & Ruth Jackson <mjatty@sbcglobal.net>, "Grader, Zeke" <zgrader@ifrfish.org>, "Macfarlane, Stephen (ENRD)" <Stephen.Macfarlane@usdoj.gov>, <Steve_Thompson@fws.gov>, Russell Bellmer <Russell.Bellmer@noaa.gov>, Hamilton Candee <hcandee@nrdc.org>

No. 3

Email from Lisa Coffman, Continued

3-1 See Response to Comment 1-4.

3-2 See Response to Comment 1-4.

california water impact network

July 31, 2007

Mr. Chuck Jachens, Project Manager
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Re: Draft EA/Initial Study on "Conveyance of Refuge Water Supply South of San Joaquin Valley Study Area"

Dear Mr. Jachens:

The California Water Impact Network (C-WIN) appreciates the opportunity to comment on this draft document. Several other agencies and organizations have already registered their concerns over the Draft EA, including the United States Fish and Wildlife Service (comment letter dated July 17, 2007), the United States Environmental Protection Agency (comment letter dated July 13, 2007), and the Natural Resources Defense Council/Bay Institute (comment letter dated June 30, 2007). C-WIN shares the concerns raised in those letters, but writes to reiterate the importance of several central issues.

First, we are concerned that CVPIA Restoration Funds may be used to cover some portion of the project's costs. The Draft EA does not clearly address what percentage, if any, of the costs will be borne by the Fund, making it difficult to assess the reasonableness/lawfulness of doing so, particularly in light of the fact that Mendota Wildlife Area will receive relatively minor benefits from the project, as compared to the substantial benefits afforded other Mendota Pool users. We request that the final document fully disclose the role Restoration Funds will play in financing construction and/or operation of this facility. We also request that the final document address the impact of tapping the Restoration Fund for this purpose given any changes to the Fund's contribution structure that might result from the implementation of a drainage settlement agreement. All current versions of the drainage settlement agreement will absolve the San Luis Irrigation Contractors of any obligation to contribute to the Fund, which will further constrain restoration activities.

3-1

3-2

P.O. Box 878, Shaver Lake, CA 93664. Email: lisa@c-win.org. Phone: (559) 472-4914, Fax: (559) 761-0744

No. 3

C-WIN Aug. 1, 2007 Comment Letter Re. Conveyance of Refuge Water Supply (page 2 of 2).

Second, C-WIN shares the concern expressed by others that water quality issues have not been adequately addressed in the Draft EA/IS. Among other things, there are a number of projects currently under consideration, including the Meyers Farm Water Banking Project, which have the potential to further degrade water quality in Mendota Pool. The cumulative impact of these projects on water quality should be considered. If, as is stated in the Draft EA, one of the central goals of this project is to improve water supply reliability to Mendota Wildlife Area, the quality of the water that is to be delivered under the locally preferred alternative should be carefully weighed against alternatives that would deliver higher quality water from a different source. 3-3 3-4

Thank you again for the opportunity to comment on the Draft EA/IS.

Sincerely,

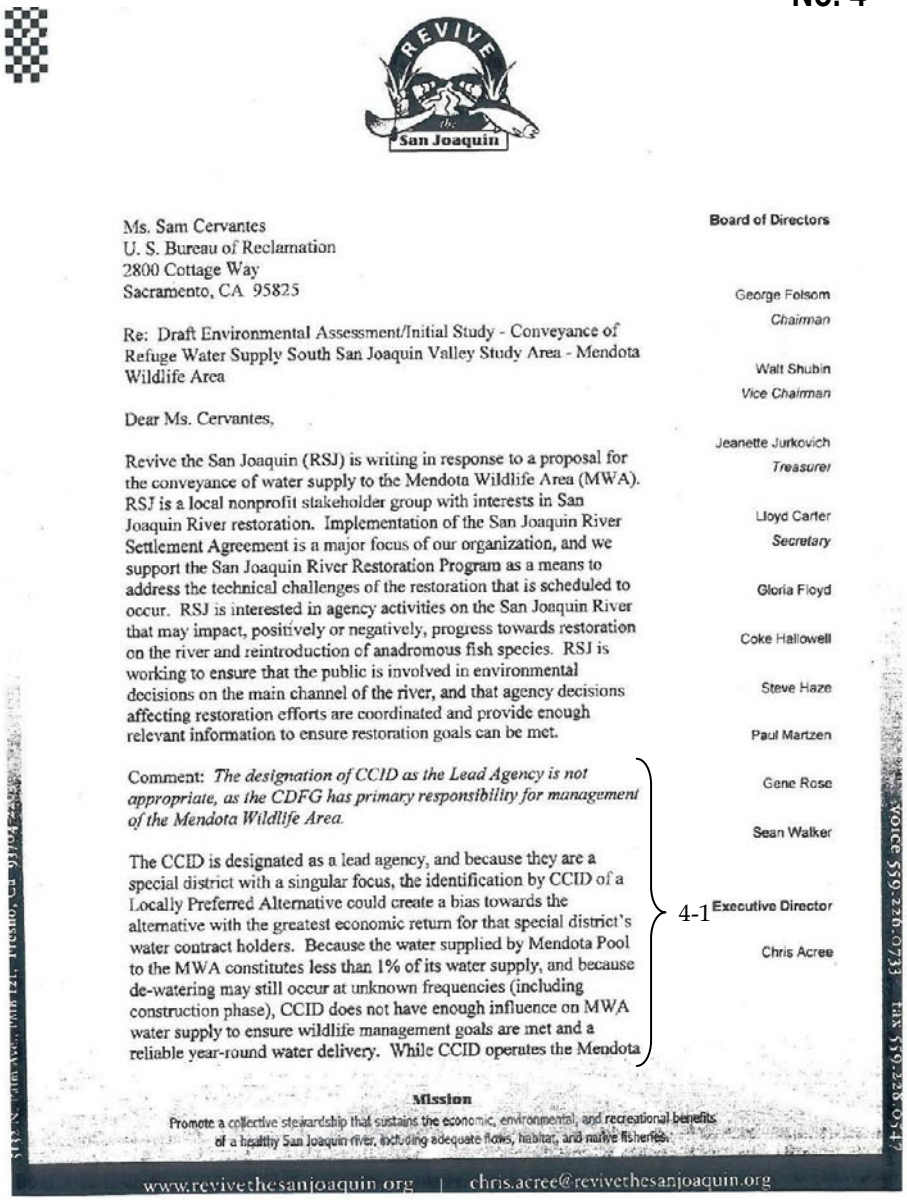
Lisa B. Coffman
Executive Director

Email from Lisa Coffman, Continued

3-3 See Response to Comment 2-9.

3-4 See Response to Comment 2-9.

No. 4



REVIVE the San Joaquin

Ms. Sam Cervantes
U. S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Re: Draft Environmental Assessment/Initial Study - Conveyance of Refuge Water Supply South San Joaquin Valley Study Area - Mendota Wildlife Area

Dear Ms. Cervantes,

Revive the San Joaquin (RSJ) is writing in response to a proposal for the conveyance of water supply to the Mendota Wildlife Area (MWA). RSJ is a local nonprofit stakeholder group with interests in San Joaquin River restoration. Implementation of the San Joaquin River Settlement Agreement is a major focus of our organization, and we support the San Joaquin River Restoration Program as a means to address the technical challenges of the restoration that is scheduled to occur. RSJ is interested in agency activities on the San Joaquin River that may impact, positively or negatively, progress towards restoration on the river and reintroduction of anadromous fish species. RSJ is working to ensure that the public is involved in environmental decisions on the main channel of the river, and that agency decisions affecting restoration efforts are coordinated and provide enough relevant information to ensure restoration goals can be met.

Comment: *The designation of CCID as the Lead Agency is not appropriate, as the CDFG has primary responsibility for management of the Mendota Wildlife Area.*

The CCID is designated as a lead agency, and because they are a special district with a singular focus, the identification by CCID of a Locally Preferred Alternative could create a bias towards the alternative with the greatest economic return for that special district's water contract holders. Because the water supplied by Mendota Pool to the MWA constitutes less than 1% of its water supply, and because de-watering may still occur at unknown frequencies (including construction phase), CCID does not have enough influence on MWA water supply to ensure wildlife management goals are met and a reliable year-round water delivery. While CCID operates the Mendota

4-1

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Chris Acree

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Promote a collective stewardship that sustains the economic, environmental, and recreational benefits of a healthy San Joaquin river, including adequate flows, habitat, and native fisheries.

www.revivethesanjoaquin.org | chris.acree@revivethesanjoaquin.org

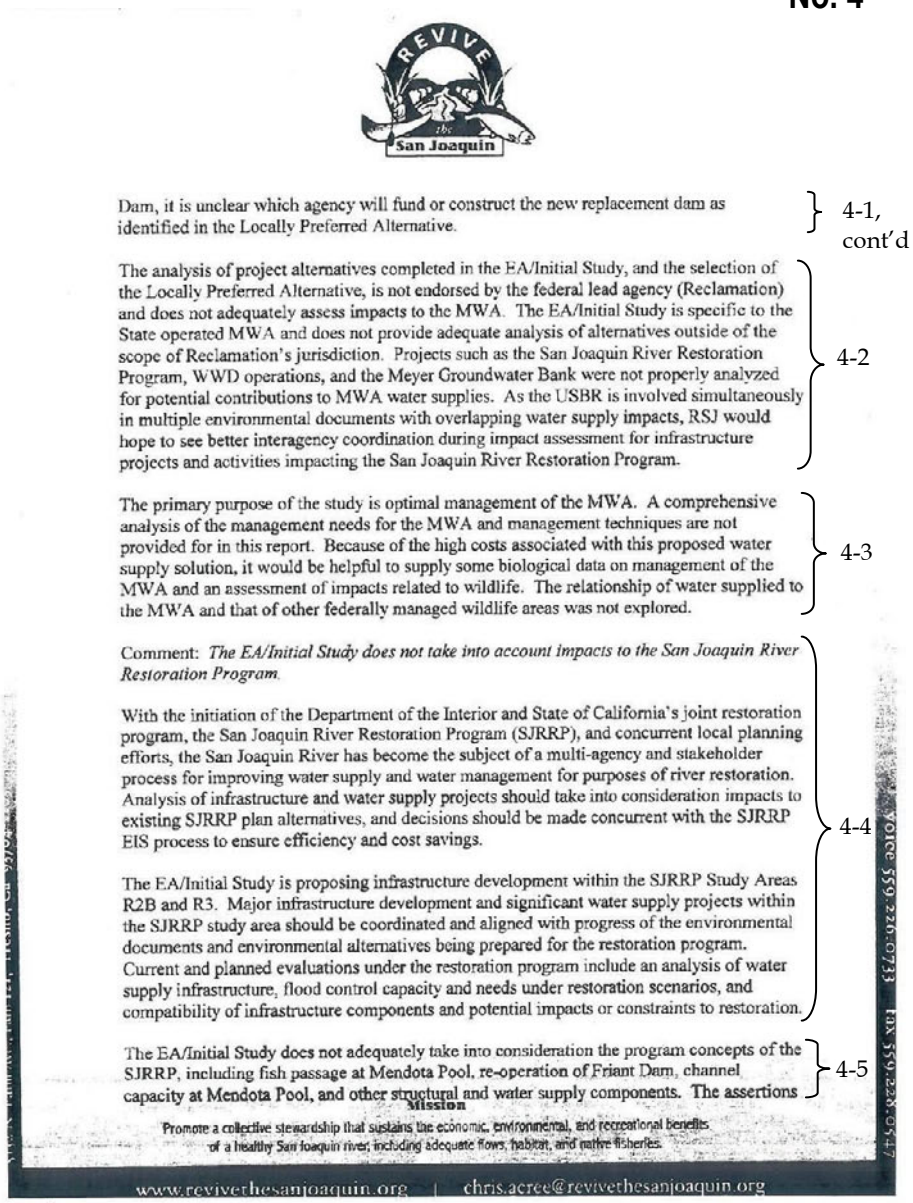
Letter from Chris Acree, Executive Director, Revive the San Joaquin

4-1 The commentor is correct that Mendota WA is owned and managed by the California Department of Fish and Game (CDFG). However, as stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, "because current limitations on refuge water supply deliveries are a result of CCID facility (Mendota Dam) operations and many of the alternatives considered involve reconstruction, reoperation, or retrofit of Mendota Dam," CCID was considered to be the appropriate CEQA lead agency. Reclamation and CDFG agreed that CCID should be the lead agency.

The Mendota WA will be a beneficiary of the proposed action. Among the wide range of alternatives evaluated, the replacement of the existing dam directly downstream was selected as the most cost-effective way to ensure reliable water supplies to Mendota WA. As stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, it is recognized that other CVP water users currently rely on the existing dam and its operation for all or a portion of their water supplies.

Funding for the proposed action is not considered to be an environmental consideration and was not outlined in detail in the EA/IS. Regardless, Reclamation is currently evaluating the potential cost share and funding sources. At this time, Reclamation's portion of the overall cost share for replacement has not been determined and will be negotiated with the other users proportionate with the anticipated benefits to be derived from the construction and operation of a new dam.

No. 4



Dam, it is unclear which agency will fund or construct the new replacement dam as identified in the Locally Preferred Alternative. } 4-1, cont'd

The analysis of project alternatives completed in the EA/Initial Study, and the selection of the Locally Preferred Alternative, is not endorsed by the federal lead agency (Reclamation) and does not adequately assess impacts to the MWA. The EA/Initial Study is specific to the State operated MWA and does not provide adequate analysis of alternatives outside of the scope of Reclamation's jurisdiction. Projects such as the San Joaquin River Restoration Program, WWD operations, and the Meyer Groundwater Bank were not properly analyzed for potential contributions to MWA water supplies. As the USBR is involved simultaneously in multiple environmental documents with overlapping water supply impacts, RSJ would hope to see better interagency coordination during impact assessment for infrastructure projects and activities impacting the San Joaquin River Restoration Program. } 4-2

The primary purpose of the study is optimal management of the MWA. A comprehensive analysis of the management needs for the MWA and management techniques are not provided for in this report. Because of the high costs associated with this proposed water supply solution, it would be helpful to supply some biological data on management of the MWA and an assessment of impacts related to wildlife. The relationship of water supplied to the MWA and that of other federally managed wildlife areas was not explored. } 4-3

Comment: *The EA/Initial Study does not take into account impacts to the San Joaquin River Restoration Program.*

With the initiation of the Department of the Interior and State of California's joint restoration program, the San Joaquin River Restoration Program (SJRRP), and concurrent local planning efforts, the San Joaquin River has become the subject of a multi-agency and stakeholder process for improving water supply and water management for purposes of river restoration. Analysis of infrastructure and water supply projects should take into consideration impacts to existing SJRRP plan alternatives, and decisions should be made concurrent with the SJRRP EIS process to ensure efficiency and cost savings.

The EA/Initial Study is proposing infrastructure development within the SJRRP Study Areas R2B and R3. Major infrastructure development and significant water supply projects within the SJRRP study area should be coordinated and aligned with progress of the environmental documents and environmental alternatives being prepared for the restoration program. Current and planned evaluations under the restoration program include an analysis of water supply infrastructure, flood control capacity and needs under restoration scenarios, and compatibility of infrastructure components and potential impacts or constraints to restoration. } 4-4

The EA/Initial Study does not adequately take into consideration the program concepts of the SJRRP, including fish passage at Mendota Pool, re-operation of Friant Dam, channel capacity at Mendota Pool, and other structural and water supply components. The assertions } 4-5

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Letter from Chris Acree, Continued

4-2 See Responses to Comments 1-5(a), 1-5(c), 1-7, and 5-1 through 5-3.

4-3 Although the EA/IS focuses on disclosing potential impacts associated with the implementation of alternatives identified as potentially feasible for meeting the proposed purpose and need, information on the management of Mendota WA is located in the Mendota Wildlife Area section of Chapter II, Background, of the EA/IS, which states, "Mendota WA is dependent on gravity flows from Fresno Slough to provide water deliveries to approximately 3,000 acres of wetlands adjacent to both west and east sides of the slough. Currently, there are no other existing means to facilitate water delivery to those specific 3,000 wetland acres. Mendota WA is also dependent on adequate water level at Fresno Slough to facilitate pumping that serves many areas of Mendota WA as well." Mendota WA can take and hold additional water onsite when Mendota Pool is dewatered; however, storing additional water onsite for an extended period results in poor water quality and overall habitat degradation.

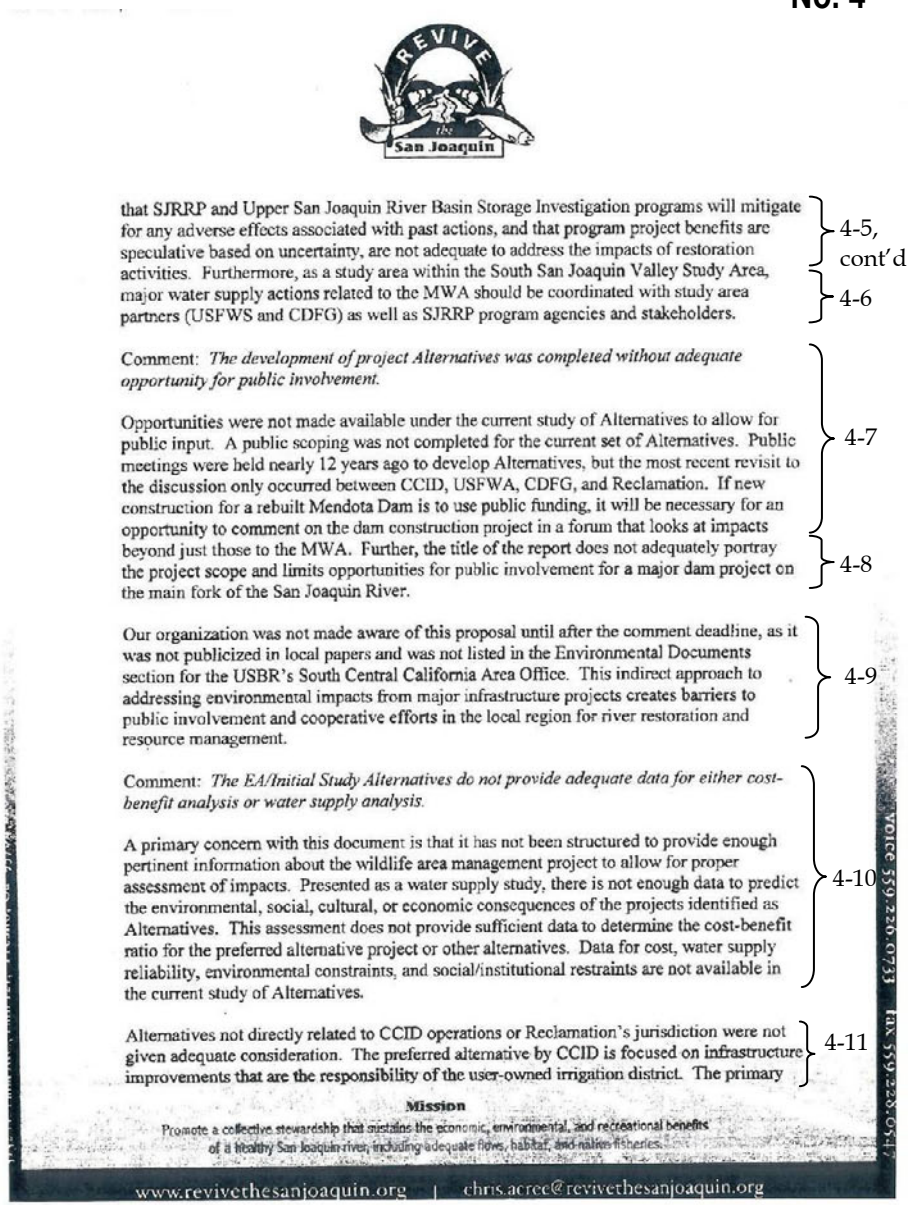
Additional information on management and water needs at Mendota WA is located in the Mendota Wildlife Area section of Chapter II, Background, of the EA/IS. Information on biological resources can be found in the Biological Resources section of Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS.

The evaluation of impacts of MEN-5 on operations in the Biological Resources section of Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS concluded that "modifying operation of Mendota Dam to maintain water in Mendota Pool during the winter months would be expected to result in beneficial impact to overwintering waterfowl that use Mendota Pool and Mendota WA. Under Alternative MEN-5, a more consistent water level would be expected in Mendota Pool throughout the year. This, in combination with the less frequent dewatering of Mendota Pool (approximately once every four years for inspections and maintenance), could result in an improvement in the local fishery."

The development of Level 4 water supply is described in the CVPIA Water Allocation for Mendota Wildlife Area section of Chapter II, Background, of the EA/IS. Level 4 water supply is by definition "the amount of water required to manage for optimal wetlands and wildlife habitat development."

4-4 See Responses to Comments 1-5(a) and 1-5(c).

No. 4



that SJRRP and Upper San Joaquin River Basin Storage Investigation programs will mitigate for any adverse effects associated with past actions, and that program project benefits are speculative based on uncertainty, are not adequate to address the impacts of restoration activities. Furthermore, as a study area within the South San Joaquin Valley Study Area, major water supply actions related to the MWA should be coordinated with study area partners (USFWS and CDFG) as well as SJRRP program agencies and stakeholders. 4-5, cont'd 4-6

Comment: *The development of project Alternatives was completed without adequate opportunity for public involvement.*

Opportunities were not made available under the current study of Alternatives to allow for public input. A public scoping was not completed for the current set of Alternatives. Public meetings were held nearly 12 years ago to develop Alternatives, but the most recent revisit to the discussion only occurred between CCID, USFWA, CDFG, and Reclamation. If new construction for a rebuilt Mendota Dam is to use public funding, it will be necessary for an opportunity to comment on the dam construction project in a forum that looks at impacts beyond just those to the MWA. Further, the title of the report does not adequately portray the project scope and limits opportunities for public involvement for a major dam project on the main fork of the San Joaquin River. 4-7 4-8

Our organization was not made aware of this proposal until after the comment deadline, as it was not publicized in local papers and was not listed in the Environmental Documents section for the USBR's South Central California Area Office. This indirect approach to addressing environmental impacts from major infrastructure projects creates barriers to public involvement and cooperative efforts in the local region for river restoration and resource management. 4-9

Comment: *The EA/Initial Study Alternatives do not provide adequate data for either cost-benefit analysis or water supply analysis.*

A primary concern with this document is that it has not been structured to provide enough pertinent information about the wildlife area management project to allow for proper assessment of impacts. Presented as a water supply study, there is not enough data to predict the environmental, social, cultural, or economic consequences of the projects identified as Alternatives. This assessment does not provide sufficient data to determine the cost-benefit ratio for the preferred alternative project or other alternatives. Data for cost, water supply reliability, environmental constraints, and social/institutional restraints are not available in the current study of Alternatives. 4-10

Alternatives not directly related to CCID operations or Reclamation's jurisdiction were not given adequate consideration. The preferred alternative by CCID is focused on infrastructure improvements that are the responsibility of the user-owned irrigation district. The primary 4-11

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Letter from Chris Acree, Continued

4-5 See Responses to Comments 1-5(a) and 1-5(c).

4-6 See Responses to Comments 1-5(a) and 1-5(c).

4-7 The Alternative Development and Screening Criteria section in Chapter III, Description of Alternatives, of the EA/IS provides a chronological account on the development of alternatives. Reclamation held the initial series of public meetings and workshops to solicit public comments on the potential alternatives and identify additional alternatives for consideration. In these meetings, seven alternatives were developed to provide year-round water deliveries to Mendota WA: MEN-1, MEN-2 (Facilities Re-operation Alternative), MEN-3, MEN-4A, MEN-4B, MEN-4C, and MEN-5 (Dam Replacement Alternative). A subsequent workshop was held on June 17, 1994, to screen these seven alternatives, and alternative MEN-6 (a combination of Alternatives MEN-1 and MEN-4) was added. In early June 1995, additional public workshops were held to determine that the alternatives were feasible with respect to accomplishing the purpose of, and satisfying the need for, the project alternatives. A subsequent meeting was held March 22, 2005, between Reclamation, CCID, CDFG, and USFWS to ensure that the alternatives previously identified with public input were still consistent with current operations at Mendota Dam and Mendota WA, and to identify potential new alternatives for consideration. The alternatives developed previously with public involvement as well as additional alternatives developed to broaden the range of potential alternatives were carried forward as part of the 18 alternatives and subalternatives identified in the EA/IS.

In addition, see Response to Comment 1-1.

4-8 See Response to Comment 1-1.

4-9 On May 18, 2007, a press release announcing the availability of the EA/IS for public review and comment was sent by Reclamation via mail or email to approximately 300 interested individuals, organizations, and news entities. A copy of the draft document was posted online at http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=104. In addition, the comment period was extended three times by press release sent on June 29, 2007, July 5, 2007, and July 17, 2007.

No. 4

Letter from Chris Acree, Continued

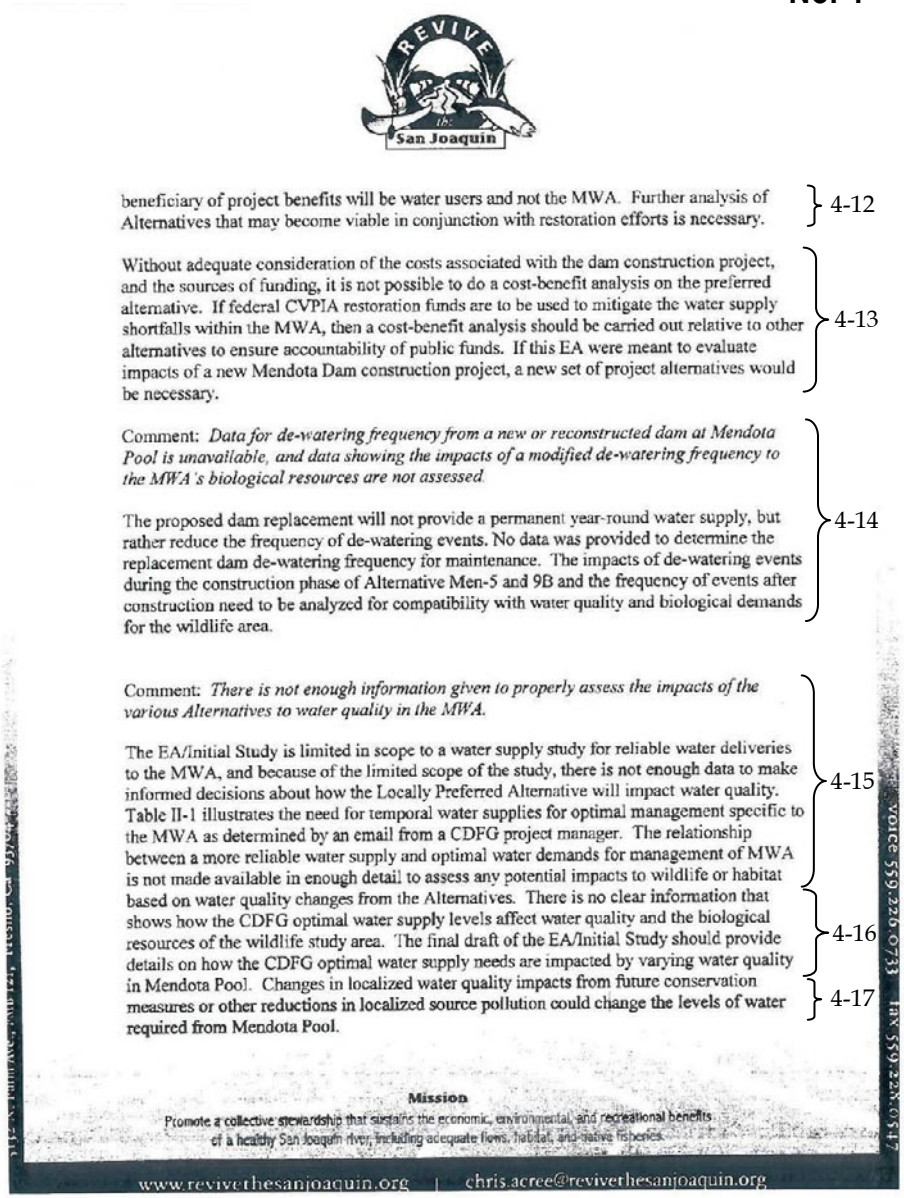
4-10 The focus of the EA/IS is to disclose the potential impacts associated with the implementation of a range of alternatives considered able to feasibly convey water supplies to meet the needs of the Mendota WA. The document is not intended to be a water supply or cost-benefit analysis.

The EA/IS evaluates a range of alternatives, including the construction of a new dam downstream of the existing Mendota Dam (MEN-5). Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS identifies all anticipated significant impacts associated with the proposed new facility (including impacts to water, biological, cultural, and socioeconomic resources), as well as proposed mitigation measures to lessen the relatively few anticipated potential impacts to a less than significant level. Appendices C, D, and E of the EA/IS list Biological Resources, Water Quality Data, and Cultural Resources of the proposed action area, respectively. The Evaluation and Selection of Alternatives section on page 5 of Appendix B, the Addendum to 1995 Decision Document – Mendota Wildlife Area Conveyance Alternatives, identifies the estimated costs for each alternative and the reasons for selection or elimination.

Also see Responses to Comments 1-1 and 4-3.

4-11 See Response to Comment 1-1.

No. 4



beneficiary of project benefits will be water users and not the MWA. Further analysis of Alternatives that may become viable in conjunction with restoration efforts is necessary. 4-12

Without adequate consideration of the costs associated with the dam construction project, and the sources of funding, it is not possible to do a cost-benefit analysis on the preferred alternative. If federal CVPIA restoration funds are to be used to mitigate the water supply shortfalls within the MWA, then a cost-benefit analysis should be carried out relative to other alternatives to ensure accountability of public funds. If this EA were meant to evaluate impacts of a new Mendota Dam construction project, a new set of project alternatives would be necessary. 4-13

Comment: *Data for de-watering frequency from a new or reconstructed dam at Mendota Pool is unavailable, and data showing the impacts of a modified de-watering frequency to the MWA's biological resources are not assessed.*

The proposed dam replacement will not provide a permanent year-round water supply, but rather reduce the frequency of de-watering events. No data was provided to determine the replacement dam de-watering frequency for maintenance. The impacts of de-watering events during the construction phase of Alternative Men-5 and 9B and the frequency of events after construction need to be analyzed for compatibility with water quality and biological demands for the wildlife area. 4-14

Comment: *There is not enough information given to properly assess the impacts of the various Alternatives to water quality in the MWA.*

The EA/Initial Study is limited in scope to a water supply study for reliable water deliveries to the MWA, and because of the limited scope of the study, there is not enough data to make informed decisions about how the Locally Preferred Alternative will impact water quality. Table II-1 illustrates the need for temporal water supplies for optimal management specific to the MWA as determined by an email from a CDFG project manager. The relationship between a more reliable water supply and optimal water demands for management of MWA is not made available in enough detail to assess any potential impacts to wildlife or habitat based on water quality changes from the Alternatives. There is no clear information that shows how the CDFG optimal water supply levels affect water quality and the biological resources of the wildlife study area. The final draft of the EA/Initial Study should provide details on how the CDFG optimal water supply needs are impacted by varying water quality in Mendota Pool. Changes in localized water quality impacts from future conservation measures or other reductions in localized source pollution could change the levels of water required from Mendota Pool. 4-15 4-16 4-17

Mission

Promote a collective stewardship that sustains the economic, environmental, and recreational benefits of a healthy San Joaquin river, including adequate flows, habitat, and native fisheries.

www.revivethesanjoaquin.org | chris.acree@revivethesanjoaquin.org

Letter from Chris Acree, Continued

4-12 See Responses to Comments 1-1 and 1-5(a).

4-13 See Response to Comment 1-4.

4-14 As stated in the Biological Resources section of Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS, dewatering of the Mendota Pool under Alternative MEN-5 is anticipated to occur every 4 years for inspection and maintenance. Under Alternative MEN-9B, the Mendota Pool would be dewatered as outlined in the No Action and No Project Alternative.

Impacts to water quality and biological resources during construction activities and operations of the Mendota Dam were qualitatively evaluated in Chapter IV, Affected Environmental and Environmental Consequences, of the EA/IS. Mitigation measures were identified where feasible to address potential impacts due to construction activities and operations for both alternatives.

Dewatering under MEN-5 would typically take 2 weeks or less because of the new construction and automated gates. Mendota WA is able to manage and maintain optimal habitat with short outages of the water supply if scheduled in advance. The Mendota WA staff is confident short outages (2 weeks under dry weather conditions and longer if the weather is wet) are manageable; and with a replacement dam, the pool can be filled quickly with automated gates.

4-15 See Response to Comment 2-9.

4-16 See Response to Comment 4-3.

4-17 See Response to Comment 2-9.

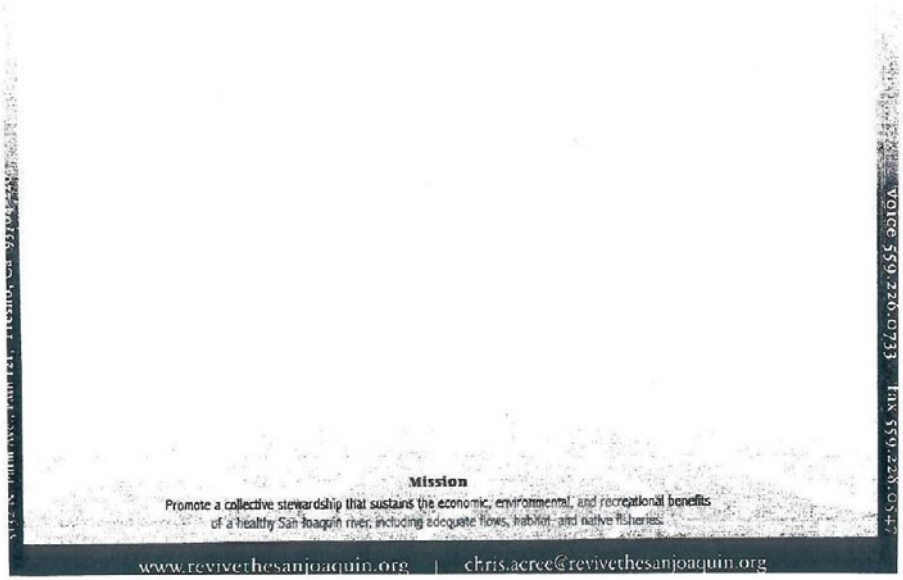
No. 4

Letter from Chris Acree, Continued

Thank you for the opportunity to comment on this EA/Initial Study. Please notify Revive the San Joaquin when a final EA is released at: Revive the San Joaquin, 5132 N. Palm Ave., PMB 121, Fresno, CA 93704, chris.acree@revivethesanjoaquin.org, Ph# (559) 226-0733.

Sincerely,

Chris Acree
Executive Director
Revive the San Joaquin



No. 5

From: "Mark Rhodes" <mrhodes@westlandswater.org>
To: <scervantes@mp.usbr.gov>
Date: 8/1/2007 6:28:21 PM
Subject: Draft Environmental Assessment - Conveyance of Refuge Water Supply South San Joaquin Valley Study Area Mendota Wildlife Area

Ms. Sam Cervantes,

With regard to the draft EA for conveying level 4 water supplies to the Mendota Wildlife Refuge and two of the considered alternatives:

Alternative MEN-9B - Convey Full Level 4 Water using Westlands

Water District Facilities

Alternative MEN-12 - Convey Level 4 Water Supplies using Westlands

Water District Facilities When Mendota Dam is Dewatered

Neither alternative discusses in detail construction impacts nor current water delivery and use for laterals 4-7 in Westlands water District. Construction and modifications to these facilities potentially could cause delays or inability to deliver water for certain periods of time with little or no discussion of this impact or what measures would be taken to mitigate such impact. 5-1

Further, there is little or no discussion on existing water delivery and or historical patterns of use and or future projections for water use on Laterals 4-7. There is no discussion on how these facilities are used now and how they would be impacted by increasing water delivery to the refuge and how this could be coordinated with little or no significant impact to existing water users in Westlands. 5-2

We would recommend that further details should be provided. If MEN-12 is one of the preferred alternatives it would require more discussion of the existing facilities use and how the new project could integrate into the operation and how it would affect 3'rd parties. 5-3

Best regards,
Mark Rhodes
Associate Resources Analyst
Westlands Water District
(559) 241-6214

CC: "Susan Ramos" <sramos@westlandswater.org>, "Russ Freeman" <rfreeman@westlandswater.org>

Email from Mark Rhodes, Associate Resources Analyst, Westlands Water District, Dated August 1, 2007

5-1 WWD staff (Mr. Robert Burns, Field Engineering Supervisor) was contacted to assist in identifying the potential feasibility of using WWD facilities to convey refuge water supplies to Mendota WA. Through these conversations, use of WWD facilities was considered to be a feasible method of meeting the intended purpose of the proposed action. Prior to implementation, additional evaluation, including the detailed design and an operational agreement with WWD, would be required. The operational plans would include agreements with WWD to ensure that district customers would not be impacted while the needs of Mendota WA are met.

5-2 See Response to Comment 5-1.

5-3 See Response to Comment 5-1.

No. 6

Letter from Frances C. Mizuno, P.E., Assistant Executive Director, San Luis & Delta-Mendota Water Authority

The comments provided below are submitted on behalf of the San Luis & Delta-Mendota Water Authority.

The following information needs to be incorporated into the draft EA/IS to better describe the problems associated with a No Action Alternative and benefits associated with Replace Dam alternative:

1. The San Luis & Delta-Mendota Water Authority (Water Authority) operate and maintain the Delta-Mendota Canal and operate the Mendota Pool. Releases into the pool are made by the Water Authority in accordance with Mendota Pool water contractor's water delivery schedules and in accordance with Division of Safety of Dams (DOSD) requirements for water surface elevations for the dam. As a result of the most recent DOSD inspection of the Mendota Dam where structural issues were discovered, recommendations to limit the water surface elevation to a maximum of 14.3 (.02' lower then the previous limit of 14.5') at the Dam have been implemented. Central California Irrigation District that operates the Dam has lowered the stop logs on the Dam to ensure that the elevation does not exceed 14.3 such that when elevations begin to exceed 14.3, the water is spilled over the top of the stop logs. This has created a burden on the users at the Fresno Slough end of the Pool. These users not only have to contend with a lower elevation, but also increased siltation in the Pool where water needs to travel over silt bars to get to its destination. The silt bars act as weirs, allowing only a certain amount of flow to pass over the top. When demands are high, there may not be enough water to satisfy all the users.

Particularly vulnerable to the lower elevation and siltation problem, is the Mendota Wildlife area and their areas of "floating ponds" where these ponds are filled by gravity turnouts and therefore cannot attain the elevations accustomed to in the past.

The lower operating level also mean less available storage to rely on until new water supplies based on current orders are delivered. Orders for the Mendota Pool are received prior to 0900 hours daily. Based on the water

6-1

6-1 Comment noted.

No. 6

orders and the current Mendota Pool elevation, a determination is made on how much water is needed to send to the Pool. Users typically start taking their ordered water at the beginning of the day in order to meet their demands. Water from the Delta-Mendota Canal does not reach the Pool until 1200 hours. This means that users are taking from storage until the new supply arrives. If the Pool is already low, the problem is compounded. To make up for this drawdown, extra water must be sent to catch up to the current demand. Therefore, it is not uncommon to deliver 200 to 300 cfs or greater over the water order in the attempt to stabilize the Pool elevation.

The Mendota Pool also has weakened levees that are subject to seepage and the expanse of the Pool and relatively low depth cause high evaporation during warm weather.

6-1, cont'd

2. Water losses in the pool

Just with normal operations to deliver water to and from the pool, it is estimated that the annual loss in the pool is 100,000AF. This is attributed to seepage, evaporation, leakage at the dam and input of more water to maintain water surface elevations. A new dam would assist in reducing losses due to lack of leakage through the dam and the ability to better manage the water surface elevations without extra water.

In addition the Mendota Pool capacity is approximately 8000 AF. Each time the pool is dewatered, approximately 6000 AF of water is discharged out of the dam and the water is lost to the project. Using conservative cost of water at $100/AF, this lost water is valued at $600,000. For a ten year period, the lost water adds up to 30,000 AF of water valued at $3M that is lost to the system. At a time where water is at a premium south of the delta, this lost is not acceptable.

6-2

3. The Water Authority supports the Replace Dam alternative as the best option to provide reliable water supply to the MWA as well as other contractors in the Fresno Slough with the added large benefit of reducing substantial water loss from the pool.

6-3

Submitted by:

Frances C. Mizuno P.E.
Assistant Executive Director
San Luis & Delta-Mendota Water Authority

Letter from Frances C. Mizuno, P.E., Continued

6-2 Comment noted.

6-3 Comment noted.

No. 7

United States Department of the Interior

FISH AND WILDLIFE SERVICE

San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

17 July 2007

Ms. Sam Cervantes
U. S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Re: Draft Environmental Assessment/Initial Study -- Conveyance of Refuge Water Supply South San Joaquin Valley Study Area -- Mendota Wildlife Area

Dear Ms. Cervantes:

This Environmental Assessment/Initial Study states that, "The primary purpose for this proposed action is to provide reliable year-round water deliveries to Mendota WA [Wildlife Area]". In addition, it cites -- as justification for the project -- the Central Valley Project Improvement Act (CVPIA) Section 3406(d) requirement to provide reliable year-round water supplies to the various wildlife areas listed in the CVPIA. It also describes the dewatering of the Mendota Pool during the late November – mid-January time period, which most impacts the Mendota Wildlife Area over other users as a rationale for completing the project. Though not stated, these references imply the expectation that the CVPIA Restoration Fund will be used to fund this action; but does not address the impacts of using that Fund. 7-1

However, the EA/IS also describes benefits to be gained by the operating agency in terms of reduced maintenance and costs; and listed several other entities that benefit from the operation of the Mendota Dam. Under "Associated Local Needs and Objectives under CEQA" the EA/IS states, "All alternatives analyzed would provide reliable year-round water deliveries to Mendota WA. Some alternatives analyzed in this EA/IS are designed to improve the reliability of year-round water supplies from Mendota Pool, which in turn would provide a benefit to all Mendota Pool users, including CVP Settlement Contractors, Exchange Contractors, and Mendota WA." The EA/IS states, "The primary function of Mendota Dam is to distribute water … to a number of irrigation districts collectively known as Exchange Contractors." The primary beneficiaries of this project would appear to be other entities rather than the Mendota WA. 7-2

The CVPIA allotment for Mendota WA during the late November – mid-January time period is approximately 2,000 acre-feet, or 7% of the total Mendota WA allotment of 27,594/29,650 (Level 2/Level 4) acre-feet. The Mendota Pool is drawn down once every one to three years. Assuming an average of one draw-down every other year, the impact is on an average of 1,000 acre-feet of water delivery per year. Because the Mendota Pool is a re-regulating reservoir for more than 1 million acre-feet of CVP water pumped from the Delta and delivered by the Delta-Mendota Canal every year, the stated purpose of this project is to improve the reliability of 1/10th of 1.0% of the water managed via this Dam. 7-3

Letter from Kim Forrest, Wildlife Refuge Manager, U.S. Fish and Wildlife Service, San Luis National Wildlife Complex, Dated July 17, 2007

7-1 See Response to Comment 1-4.

7-2 See Responses to Comments 1-1 and 1-4.

7-3 See Response to Comment 1-4.

No. 7

Though the EA/IS mentions that cost was factored into alternative selection, the costs are not reflected in this document. However, it is safe to assume they are substantial. Unless the costs are allocated proportionally to all users, it would be very inappropriate to use the Restoration Fund solely. And, in fact, the major negative environmental impact would be to use the Restoration Fund solely. Many worthy and appropriate projects would not be funded by the Restoration Fund, in lieu of this presumably very expensive project. However, this environmental impact is not reflected or addressed in the EA/IS. 7-3, cont'd

The possibility of using solely the Restoration Fund – or any Bureau of Reclamation funds, for that matter -- for this project is rather baffling. The U. S. Fish and Wildlife Service was recently told by the BOR (twice) that, "…the era of big-ticket construction projects is over". This was in reference to the completion of the long-planned southern half of the water delivery system for the East Bear Creek Unit of the San Luis National Wildlife Refuge, which carries a cost estimate of $7-15 million. The purpose of the southern half of the East Bear Creek Unit system is to provide a reliable year-round supply. Yet, this much costlier Mendota Dam project is being considered in order to maintain a reliable supply of 2,000 acre-feet every other year. 7-4

Finally, the statement "The water that continues to leak through Mendota Dam historically has been conveyed to Sack Dam and delivered by the San Luis Canal Company to the San Luis National Wildlife Refuge" is confusing and needs clarification. Water leaking through the Dam would be delivered to many users, not a single refuge. 7-5

Thank you for this opportunity to comment on the subject EA/IS.

Sincerely,

Kim Forrest
Wildlife Refuge Manager

Cc: Dale Garrison, FWS
John Brooks, FWS
Dan Walsworth, FWS
Cesar Blanco, FWS
John Engbring, FWS
Joy Winckel, FWS

TAKE PRIDE IN AMERICA

Letter from Kim Forrest, Continued

7-4 See Response to Comment 1-4.

7-5 The EA/IS has been revised to clarify the statement.

No. 8

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825

In reply refer to:

AUG 0 1 2007

Memorandum

To: Regional Director, U.S. Bureau of Reclamation, Sacramento, California

From: Acting Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Comments on the Draft Environmental Assessment – Initial Study for the Conveyance of Refuge Water Supply, South San Joaquin Valley Study Area, Mendota Wildlife Area

This memorandum transmits U.S. Fish and Wildlife Service (Service) comments on the U.S. Bureau of Reclamation's (Reclamation) and Central California Irrigation District's (CCID) *Draft Environmental Assessment/Initial Study* (DEA/IS), for the Conveyance of Refuge Water Supply, South San Joaquin Valley Study Area, Mendota Wildlife Area, dated May 2007.

The Service is providing these comments under authority of the National Environmental Policy Act (NEPA)(40 CFR Part 1500), and within associated guidance from the President's Council on Environmental Quality. Our focus in providing these comments is to assist Reclamation in its efforts to "...make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment" [40 CFR Part 1500.1(c)]. In addition to these comments, the Service will be revising our Fish and Wildlife Coordination Act (FWCA) report (USFWS 2002) to reflect updated information provided in the DEA/IS. The FWCA report will be provided to Reclamation under separate cover. Based on our review of the DEA/IS we also recommend that Reclamation reinitiate consultation pursuant to the Endangered Species Act. } 8-1

Background

Mendota Wildlife Area (MWA) is located in the San Joaquin Valley of California, approximately 30 miles west of Fresno. Established between 1954 and 1966, MWA provides alternative habitat for wildlife that could adversely affect agriculture and provides seasonal hunting opportunities.

TAKE PRIDE IN AMERICA

Letter from Michael B. Hoover, Acting Field Supervisor, U.S. Fish and Wildlife Service, Dated August 1, 2007

8-1 See Response to Comment 2-5.

No. 8

Section 3406(d) of the Central Valley Project Improvement Act (CVPIA) requires the Secretary of Interior to provide firm water supplies of suitable quality to maintain and improve wetland habitat areas on units of California's Central Valley refuges in the National Wildlife Refuge System, State wildlife management areas, and Grassland Resource Conservation District.

Based on the DEA/IS, the primary purpose for this project is to provide reliable year-round water deliveries to MWA in western Fresno County. Under current operating conditions, CCID drains (dewaters) Mendota Pool at least once every 2 years to facilitate their inspection, maintenance and completion of any necessary repairs on Mendota Dam (CCID March 17, 2004). This closure effectively makes water unavailable on an every other year basis, for a period of several weeks in the winter months. A new Mendota Dam would reduce the frequency of these maintenance closures allowing MWA to receive water deliveries year-round in more years.

The MWA's Level 2 water need is 27,594 acre-feet and Level 4 need is 2,056 acre-feet for a total of 29,650 acre-feet. In 1999, MWA received 28,648 acre-feet of water deliveries with Mendota Pool dewatering and in 2002 MWA received 28,589 acre-feet of water deliveries without dewatering Mendota Pool (Table IV-2, USBR 2006).

General Comments

1. The Service recommends that the project purpose be revised to more accurately reflect the refuge water supply directive in the CVPIA [Sec. 3406(d)]. We recommend the following wording: The purpose of the project is to provide firm water supplies of suitable quality to: (1) maintain and improve wetland habitat on units of the National Wildlife Refuge System and the State's Mendota Wildlife Management Area; and (2) meet water needs on lands of the Grasslands Resources Conservation District, CCID, and other water contractors who rely on Mendota Dam.
   NOTE: The quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph should be in accordance with sections 3406(b)(1) and (2) of the CVPIA. 8-2

2. The Service is concerned that, as currently written, the purpose of the project is to provide benefits only to the MWA. We believe the existing proposed action would benefit all Mendota Pool users (MWA, Settlement Contractors, Exchange Contractors, and CCID) and the project purpose should be changed accordingly. In addition, it should be clearly stated in the DEA/IS that since project objectives would benefit all Mendota Pool water users, the cost share of any selected alternative should be in relative proportion to the benefits obtained by the users. 8-3

3. The Service has concerns regarding degraded water quality in Delta Mendota Canal (DMC) source waters associated with discharges directly into the DMC and groundwater pumping and exchanges in the Mendota Pool. These sources cumulatively reduce the quality of water with increased loads of selenium, mercury, total dissolved solids and salts. The CVPIA directs delivery of suitable water quality for wildlife and public health concerns in each area. Water quality data is deficient in the DEA/IS so determinations of its effects are uncertain. A number of alternatives that would address the refuge water delivery issue for MWA were considered in the DEA/IS, but eliminated because of cost. 8-4

Letter from Michael B. Hoover, Continued

8-2 Comment noted. As stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, the document "evaluates the potential effects of the alternatives to provide reliable year-round deliveries to the Mendota WA." As stated in the Purpose and Need section of the same chapter, "The primary purpose for this proposed action is to provide reliable year-round deliveries to the Mendota WA." The need for this action is then identified, including to "…facilitate optimal management of Mendota WA…" In addition, CCID's specific objectives under CEQA are also included in the Associated Local Needs and Objectives under CEQA section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS. CCID lists to "improve and provide reliable year-round deliveries and conveyance of water to and from Mendota Pool and beneficiaries (e.g., Mendota WA, Contract Water Users)," to "mitigate for potential short-term and long-term adverse effects to environmental resources (e.g., habitat of species of concern; open water, riparian, and wetland habitat, Mendota WA)," and to "protect local environmental resources (natural and developed resources, ecosystems, cultural, recreation) as specific objectives of the proposed action under CEQA. The purpose and need under NEPA and objectives under CEQA collectively address USFWS's concerns.

The EA/IS has been revised to correct a typo in this section.

8-3 See Responses to Comments 1-1 and 1-4.

8-4 See Response to Comment 2-9.

No. 8

Unfortunately, the DEA/IS did not consider the effects of water quality in the choice of a preferred alternative (new Mendota Dam). If water quality (e.g., total dissolved solids) had been a factor considered in the DEA/IS, a different preferred alternative may have been selected. We recommend that Reclamation include water quality impacts as a criterion for determining significance and in determining the environmentally preferred alternative. 8-4, cont'd

4. Dam replacement without a fish ladder appears problematic to implementation of the Friant/NRDC Settlement Agreement (Settlement) for the San Joaquin River, an agreement in which the Department of the Interior is a participant. The current DEA/IS could replace Mendota Dam without completion of a fish ladder or other method of passing fish around the dam structure, resulting in an obstacle to anadromous fish restoration on the San Joaquin River. We recommend anadromous fish passage beyond Mendota Pool Dam be handled either by: (1) assuming passage is the responsibility of any selected alternative of this DEA/IS, including appropriate analysis; or (2) assuming passage will be provided by the Settlement process and an appropriate analysis provided in the Cumulative Effects section of this DEA/IS. Reference should be included in this DEA/IS that if the Settlement process fails to provide adequate passage for anadromous fish at Mendota Pool Dam; NEPA/CEQA processes, documentation, and decisions for this project would be supplemented to include construction of an appropriate fish ladder. 8-5

5. According to the DEA/IS the dam has a leakage rate through the flashboards of between 15 and 80 cubic feet per second (cfs) (Page IV-3 DEIR/IS). During the irrigation season, this water is included in the deliveries made to downstream contractors. During the non-irrigation season (from about November to February), CCID seals the leaks as much as possible to avoid water loss. The water that continues to leak through Mendota Dam historically has been conveyed to Sack Dam and delivered by the San Luis Canal Company to the San Luis National Wildlife Refuge. The DEA/IS states that with a new dam, water releases would be made to maintain water supply to downstream users from March through November. The DEA/IS does not appear to have evaluated the affect of no or reduced water releases during the non-irrigation season 8-6

Specific Concerns Regarding Water Quality

The Service recommends that a complete analysis of cumulative impacts to water quality be conducted. The MWA is at the end of the line for water deliveries from Mendota Pool. A number of sources pump groundwater into the source water of Mendota Pool reducing the quality of this water with selenium, mercury, total dissolved solids and salts. For example, the cumulative salt loading into Mendota Pool (not including the salt inputs from the DMC) from the Mendota Pool Group Pumpers and Meyers Groundwater Bank Exchange amounts to over 10,000 tons of salt per year being pumped into Mendota Pool. A detailed description of the sources and inputs of salts and selenium into Mendota Pool follows: 8-7

1. The Delta Mendota Canal Sumps – There are six drainage sumps owned by Reclamation and operated by the DMC Water Authority along the DMC in the Firebaugh Canal Water District. These sumps pump a small quantity of highly saline contaminated drainwater into the DMC. Selenium loads from these sump discharges amount to about 700 pounds of selenium being

Letter from Michael B. Hoover, Continued

8-5 See Response to Comment 1-5(c).

8-6 Given CCID releases water to customers, including the San Luis Canal Company, Los Banos Wildlife Area, and the San Luis National Wildlife Refuge during the non-irrigation season, leakage that does occur during this period is used, accounted for, and measured in the same manner as during the irrigation season releases. Because deliveries will remain the same if a new dam is constructed, water releases during all seasons including the nonirrigation season have been evaluated.

8-7 See Responses to Comments 1-7 and 2-9.

No. 8

Letter from Michael B. Hoover, Continued

added to the DMC on an annual basis. During certain times of the year, one of the DMC sumps discharges water into the DMC that exceeds hazardous waste levels for selenium under State of California law. Reclamation also monitors the DMC sumps biannually for total mercury. This data shows that the DMC sumps are a significant point source of mercury into the DMC source water – concentrations of mercury in water from the DMC sumps has ranged from 200 ng/L to 3,000 ng/L (USBR 2003-2005 DMC Monitoring Reports).

2. The Delta Mendota Canal Check Drains – The DMC is engineered to include about 90 holes upslope of the canal to relieve upslope runoff pressure during rainfall events. This engineering design protects the integrity of the canal. In the mid-1980s the Central Valley Regional Water Quality Control Board monitored the DMC check drains and found that about 1/3 of these drains were actively receiving agricultural drainage discharges (Chilcott, et al., 1988). The Central Valley Regional Water Quality Control Board has identified selenium in the DMC source water as a contributing source of drainwater contamination in the Grassland Wetland Supply Channels that results in exceedences of the 2 ppb monthly mean water quality objective for selenium (Eppinger and Chilcott, 2002). This is confirmed by the water quality monitoring program implemented by Reclamation along the entire reach of the DMC. Between O'Neil Forebay and Mendota Pool, about 1,400 pounds of selenium are being added to the water in the DMC annually. Seven hundred pounds of that selenium is coming from the DMC sumps so the other half is coming from other sources, likely the DMC check drains (USBR 2003-2005 Monthly Data Reports of the DMC Water Quality Monitoring Program).

3. Mendota Pool Group Pumpers Exchange Agreement – This project allows up to 31,600 acre-feet of non-Central Valley Project (CVP) groundwater (normal year) to 40,000 acre-feet of non-CVP groundwater (dry year) to be pumped into Mendota Pool from adjacent wells in southwestern Madera County. Of that pumpage, up to 25,000 acre-feet per year is available for exchange with CVP contract supply normally delivered to contractors from Mendota Pool to be delivered to other lands within the CVP-San Luis Unit service area for a period of 10 years (starting in 2005). Any pumpage in excess of 25,000 acre-feet per year would be exchanged/traded with other users (not state entities) around Mendota Pool. These exchanges do not require a permit from any State or local agency [Mendota Pool Group Final Environmental Impact Statement (MPG FEIS) (Appendix F page F-13)]. The total amount of groundwater that would be authorized for pumping into Mendota Pool over the 10-year life of the project is a maximum of 269,000 acre-feet.

The primary effects of the action are an increase in the cumulative rate of groundwater degradation in wells west of the Mendota Pool (USBR 2005a: MPG EIS page E-16), and increased salinity in Mendota Pool. The MPG FEIS (Appendix F page F-10) describes the increased salinity in Mendota Pool in terms of salt load as follows: "the proposed action including adjacent use pumpage, would result in an increase of the salt load to Mendota Pool of about 5,670 tons per year." Although modeling of the project predicts a reduction in salt loading from DMC source water as a result of this project, the net effect of the project as well as adjacent use pumpage is a net increase in salt loading in the Mendota Pool of almost 1,600 tons.

8-7, cont'd

No. 8

Letter from Michael B. Hoover, Continued

California Department of Fish and Game (CDFG) in their comments on the public scoping of this project noted, "This Project appears to result in exchanging higher quality surface water supplies from the Delta-Mendota Canal, which originates from the Delta, for lessor quality groundwater that would be delivered to our wildlife area. We produce wildlife food crops and require acceptable water quality over the long-term to assure our habitat objectives can be met and the value of our land is not diminished in the short or longer term."
(CDFG, January 24, 2002).

4. Meyers Groundwater Bank Exchange and Proposed Long Term Exchange Agreement - The Meyers Groundwater Banking Project (Meyers GWB) involves storage and exchange of CVP water facilitated by water banking, including: (1) storage of CVP water in a bank located within the State Water Resources Control Board's (SWRCB) authorized CVP place-of-use, but outside the San Luis Water District (SLWD) service area boundary; and (2) delivery of this water to Meyers Farm lands in SLWD after it has been extracted from the bank and exchanged with Reclamation for a like amount of water delivered via the San Luis Reservoir. The bank is a privately owned facility located east of the Fresno Slough branch of Mendota Pool on land leased from Spreckels Sugar Company near Mendota, in western Fresno County, California. The bank would divert and store available surface water during winter months (Kings River flood flows) in a shallow aquifer adjacent to Mendota Pool. The bank would also store CVP water (comprised of carry-over CVP water allocated to Meyers Farm and CVP water acquired from other sources). At a later date, based on hydrological conditions and demand, a like volume of CVP water (less five percent) would be pumped from the bank and returned to Mendota Pool for exchange with Reclamation in the following manner: (1) extracted water would be delivered to end users who divert water from Mendota Pool, and (2) Reclamation would exchange the water pumped from the bank for a like amount of water to delivered to Meyers Farm in SLWD via the San Luis Reservoir and San Luis Canal.

The Final Environmental Assessment (EA) for the Meyers Groundwater Bank/Exchange (USBR 2005b) anticipated that water would not be extracted from the bank on an annual or regular basis. During wet and above normal water years, Meyers Farm would have no need to extract water. Water stored in the bank would be extracted only after other supplemental water supplies are exhausted. This extraction would most likely occur during dry and critically dry years, but could also occur during below normal years. Water extracted from the bank would be pumped via extraction wells that will draw water from the shallow aquifer above the Corcoran Clay.

Based on six extraction wells, extraction from the bank would be expected to occur at a rate of about 1,250 acre-feet per month between May 1 and August 31 (total of 5,000 acre-feet per year) during dry and critically dry years. During below normal years, the extraction rate would likely be reduced to 1,000 acre-feet per month (total of 4,000 acre-feet per year).

The TDS concentration of water pumped by the extraction wells is assumed to be 650 mg/L based on the most recent sample from Extraction Well #1. Assuming an average concentration of 650 mg/L TDS and 5,000 acre feet pumped into the pool per year (af/year) in a dry year and 4,000 af/year in a normal year, loading into Mendota Pool from the Meyers Groundwater Bank/Exchange would be 4,420 tons salt and 3,536 tons of salt, respectively. However, on June 13, 2007, Reclamation released a draft 25-year contract for public comment that effectively would double the quantity of water and salt to be pumped into Mendota Pool [from what was

8-7, cont'd

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Letter from Michael B. Hoover, Continued

analyzed in the in the DEA [USBR 2005b)] from the Meyers Groundwater Bank/Exchange Project. The draft contract allows exchange of water as follows, "In any Year, up to 10,526 acre-feet of banked Water from Meyers Banking Facility, may be introduced into the Pool and in exchange the United States shall make up to 10,000 acre-feet of Exchange Water available via the Project facilities to the Contractor in accordance with the provisions of subdivision c of this Article" (USBR June 2007). Assuming that the quality of water pumped into the pool averaged 650 mg/L TDS (a scenario that is assumed in the FEA for the Meyers Groundwater Bank/Exchange, but the draft Contract establishes no standards on the extracted water pumped into Mendota Pool to ensure this concentration will actually be met), the amount of salt pumped into the pool would increase from 4,420 tons of salt/year (under the Final EA) to 8,840 tons of salt/year under the draft contract.

The Final EA for the Meyers Groundwater Bank Exchange project noted that extracting groundwater and pumping it into the Pool would be expected to result in some surface water quality degradation. Because the direction of flow in the Fresno Slough is usually to the south, this water has the potential to impact diversions by MWA and water districts in the southern portion of Mendota Pool (USBR 2005b).

Water quality in the bank is assumed to improve over time. However, other than the overall water quality criteria for salinity in Mendota Pool, there are not specific salinity criteria limitations for the water that is pumped into Mendota Pool.

The CDFG in a letter to Reclamation on the DEA/IS for the Meyers Groundwater Bank Exchange project (dated March 18, 2005) noted: "The water to be extracted from Meyers Groundwater Bank Exchange would be more saline and contain different minerals than that present within the Delta-Mendota Canal/Mendota Pool/Fresno Slough system. This extracted water could degrade existing water quality within the Mendota Pool system, particularly if the banked water is returned to the Fresno Slough during dry or critically dry years as planned. The Project appears to exchange high quality delta water for water that would be degraded as a result of integration with the impaired groundwater in MFWB [Myers Farms Water Bank] vicinity. The EA states that Mendota Pool is included in the "2002 Clean Water Act Section 303(d) List of Water Quality Limited Segments [for salinity]," and that the salinity in Mendota Pool is "generally acceptable for both agriculture and aquatic life." Any actions that further impair the water quality of Mendota Pool should be avoided due to the potential impacts on aquatic life and the terrestrial species that depend on this biota. The DEA/IS evaluates potential impacts such as entrainment to the giant garter snake *(Thamnophis gigas)*. However, if water and soil salinity increases in the Mendota Wildlife Area as a result of this Project, indirect impacts to the giant garter snake population present in the MWA could result.

Reclamation's contracts to deliver CVP water to users via Mendota Pool specify water quality criteria for salinity (measured as TDS). These include: (1) a daily average of 800 mg/L, (2) a monthly average of 600 mg/L, (3) an annual average of 450 mg/L, and (4) a 5-year average of 400 mg/L. Additionally, Reclamation's water contract for refuge water supplies to MWA indicates that a TDS concentration of 800 mg/L is considered a "severe or unacceptable value (Reclamation Water Contract # 14-OC-200-7589A). The proposed maximum allowable TDS concentrations of pumped groundwater will be 2,000 mg/L and reduced to 1,200 mg/L in the fall.

8-7, cont'd

No. 8

Letter from Michael B. Hoover, Continued

In addition to the salts/selenium added to the DMC from sumps and check drains as noted in the write up on MWA supply water quality concerns, water quality of contract supply delivered from Mendota Pool to Grassland refuges is affected by several additional projects. These projects include actions that will allow groundwater to be pumped into conveyance canals, and actions to recapture tailwater flows and fallow lands that could affect water quality in Grassland conveyance channels:

1. The San Joaquin Exchange Contract 10-year Transfer Program. In 2005, Reclamation finalized an EIS/EIR on the San Joaquin Exchange Contractors' 10-year Transfer Program (SJEC EIS/EIR; USBR 2004). This program allows for the transfer of up to 130,000 ac-ft/year of substitute water annually to several potential agricultural, municipal and wetland users for a period of 10 years. The preferred alternative would develop up to 130,000 acre feet of water during non-critical years, with up to 80,000 acre feet of water made available through conservation (including tailwater recovery) and groundwater (up to 20,000 acre feet) and up to 50,000 acre feet of water made available through crop idling/temporary land fallowing. During critical years, up to 50,000 acre feet of water may be made available through crop fallowing, and no water is to be made available from conservation/tailwater recovery and groundwater resources.

   Modeling of the effects of the preferred alternative in the SJEC EIS/EIR estimated up to a 47 percent flow reduction in Mud and Salt Sloughs during the late spring and dry and below normal water years. The largest reductions in flow would occur during April (36 percent) and May (47 percent) as shown in Table 6-5 of that document. Reclamation determined that the flow reduction would not have a significant effect on the extent or quality of the aquatic or upland habitats in Mud and Salt Sloughs because the flow reductions were in the normal range of fluctuation that occurs during normal and dry/below normal years. The Final SJEC EIS/EIR did not, however, compare the frequency of such flow reductions between the "with project" and "without project" conditions. The effect of reduced flows in Mud and Salt Slough on selenium concentrations in these channels was likewise not analyzed (pers. comm. Steve Leach, Senior Biologist, URS Corporation, March 6, 2006). It is reasonable to expect that a reduction of flow in these channels, combined with continued selenium inputs into the channels from seepage, flood events, and source water, could result in higher selenium concentrations and potentially a greater frequency of occurrence of water quality objective exceedences in these channels.

2. Proposed Long Term Transfer (25-Year) Program of the San Joaquin Exchange Contractors (SJEC). The SJEC propose to install 15 pumps along the Outside and Main Canals that pump up to 20,000 acre feet of water into these canals which would make available an equal quantity of water for transfer to San Luis Unit and San Felipe Division contractors by means of exchange. The DEA/IS for this project is anticipated in the summer of 2007. Anticipated effects of this project include increased salinity of water delivered by these canals to Grassland refuges.

8-7, cont'd

Endangered Species Act Consultation

The Service issued a Programmatic Biological Opinion, dated June 28, 1999, on National Wildlife Refuge and Wildlife Area Water Conveyance Projects, within Tulare, Kern, Fresno,

8-8

8-8 See Response to Comment 2-5.

No. 8

Letter from Michael B. Hoover, Continued

Madera, and Merced Counties, California (Service File No., 99-F-0036). That opinion included evaluation of a new Mendota Dam. However, the consultation assumed that giant garter snakes were not present and as a result construction of a new dam would have no effect on giant garter snakes. Surveys subsequent to that consultation by CDFG have documented the presence of giant garter snakes in the southern portion of Mendota Pool/Fresno Slough (in MWA) (Dickert 2005). Based on this new information, Reclamation should reinitiate the refuge water conveyance biological opinion to evaluate the effect of construction of a new dam at Mendota Pool on giant garter snakes.

8-8, cont'd

If you have any questions regarding these comments and recommendations or you would like to set up a meeting to discuss this project further, please contact Mark Littlefield at (916) 414-6520.

Literature Cited

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(USBR) U.S. Bureau of Reclamation. 2004. Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority 2005-2014 Final Environmental Impact Statement/Environmental Impact Report. Prepared for USBR Mid-Pacific Region, Sacramento and Fresno, and the San Joaquin River Exchange Contractors Water Authority by URS Corporation, Oakland, California. 17 sections and 5 appendices.

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Letter from Michael B. Hoover, Continued

USBR. 2005(a). Mendota Pool Group Final Environmental Impact Statement for the Mendota Pool 10-Year Exchange Agreements. USBR Mid-Pacific Region, Sacramento and Fresno, California, 7 chapters and appendices.

USBR. 2005(b). Draft Environmental Assessment, Meyers Groundwater Banking Project, Mendota, CA. Environmental Assessment Number 05-09, February 14, 2005, South Central California Area Office, Fresno, California, 89 pages and 7 appendices. Available at: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=1496.

USBR. 2006. Table IV-2. Administrative Draft Environmental Assessment - Initial Study for Conveyance of Refuge Water Supply South San Joaquin Valley Study Area, Mendota Wildlife Area - Prepared for USBR Mid-Pacific Region, Sacramento and Fresno, and the Central California Irrigation District, Los Banos, California.

USBR. 2007. Draft Environmental Assessment - Initial Study for Conveyance of Refuge Water Supply South San Joaquin Valley Study Area, Mendota Wildlife Area - Prepared for USBR Mid-Pacific Region, Sacramento and Fresno, and the Central California Irrigation District, Los Banos, California.

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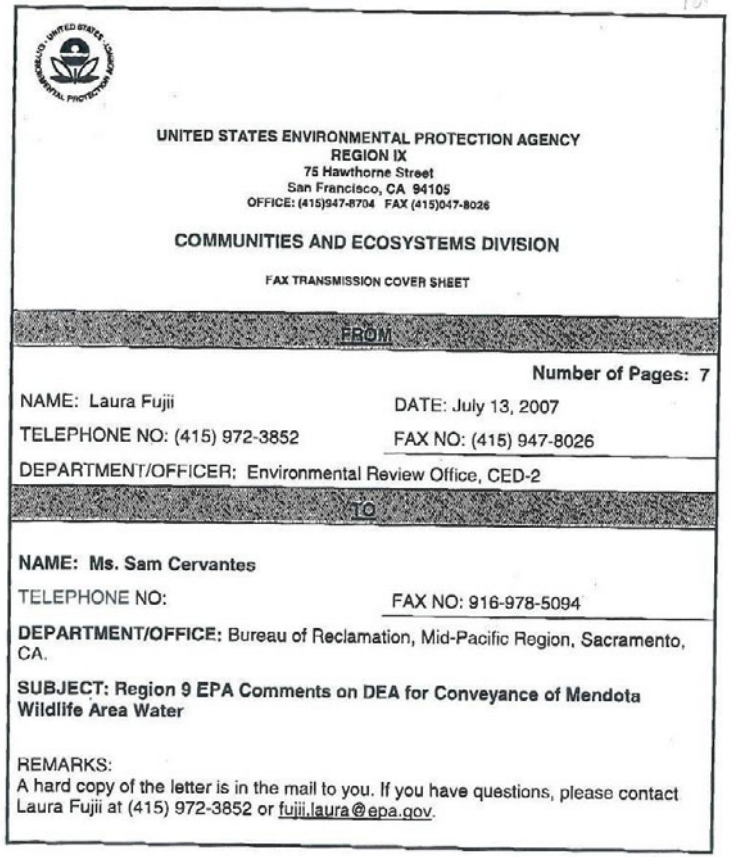
USBR. 2003-2005. Monthly Data Reports of the DMC Water Quality Monitoring Program. Reports distributed monthly via e-mail from Chris Eacock, USBR, South Central California Office, Fresno, California.

USFWS. December 10, 2002. Draft Fish and Wildlife Coordination Act Report on Final Conveyance of Refuge Water Supply for Mendota Wildlife Area EA/Negative Declaration. Sacramento Fish and Wildlife Office, Habitat Conservation Division, California, 15 pages. Contained within Appendix C of the DEA/IS for this Project and available at: http://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=2737.

No. 9

Fax from Laura Fujii for Nova Blazej, Manager, U.S. Environmental Protection Agency, Environmental Review Office, Dated July 13, 2007



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
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COMMUNITIES AND ECOSYSTEMS DIVISION

FAX TRANSMISSION COVER SHEET

FROM

Number of Pages: 7

NAME: Laura Fujii DATE: July 13, 2007

TELEPHONE NO: (415) 972-3852 FAX NO: (415) 947-8026

DEPARTMENT/OFFICER: Environmental Review Office, CED-2

TO

NAME: Ms. Sam Cervantes

TELEPHONE NO: FAX NO: 916-978-5094

DEPARTMENT/OFFICE: Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA.

SUBJECT: Region 9 EPA Comments on DEA for Conveyance of Mendota Wildlife Area Water

REMARKS:
A hard copy of the letter is in the mail to you. If you have questions, please contact Laura Fujii at (415) 972-3852 or fujii.laura@epa.gov.

No. 9

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

July 13, 2007

OFFICE OF THE
REGIONAL ADMINISTRATOR

Ms. Sam Cervantes
Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Subject: Draft Environmental Assessment for Conveyance of Refuge Water Supply, South San Joaquin Valley Study Area, Mendota Wildlife Area

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA urges selection of an alternative which directly provides a year-round reliable water supply to the Mendota Wildlife Area (Mendota WA) while comporting with 1) the restoration of the San Joaquin River, as set out in the recent San Joaquin River Settlement Agreement, and 2) efforts by the Bureau of Reclamation to provide good water quality to wildlife refuges. As stated in the Draft Environmental Assessment (DEA), the Bureau of Reclamation has responsibility under the Central Valley Project Improvement Act Section 3406(d) to provide reliable year-round water supplies for specific wildlife refuges, including the Mendota WA. 9-1

The DEA evaluates a Locally Preferred Alternative which entails construction of a new dam in the San Joaquin River channel, replacing the existing Mendota Dam which is owned and operated by the Central California Irrigation District (CCID). Currently, water delivered to the Mendota WA via gravity flow and pumping from Mendota Pool is interrupted when the CCID dewaters the Mendota Pool for maintenance. The occasional reduction of water surface levels in Mendota Pool also restricts the delivery of water to the Mendota WA. 9-2

EPA is concerned that there is insufficient detail regarding the alternatives and their potential impacts to support the environmental effects conclusions. EPA is also concerned that, in comparison to construction of a new dam, there may be more direct measures to provide a reliable water supply for the Mendota WA. For example, alternatives which would utilize existing Westland Water District facilities (Alternatives MEN-9B and 12) would provide year-round supplies to the Mendota WA whether or not the Mendota Pool is dewatered or has a lower water surface level. Additionally, these alternatives may more easily accommodate future San Joaquin River restoration goals to 9-3

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Fax from Laura Fujii for Nova Blazej, Continued

9-1 See Responses to Comments 1-5(a), 1-5(c), and 2-9.

9-2 See Response to Comment 1-1.

9-3 See Responses to Comments 1-1, 1-5(a), and 1-5(c).

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reintroduce anadromous fish. In contrast, the alternatives to replace or rehabilitate Mendota Dam (Alternatives MEN-5 and 7) would still require periodic dewatering for flushing and maintenance and would not immediately include fish passageways (p. III-5). As such, Alternatives MEN-5 and 7 are less environmentally preferable when compared to Alternatives MEN-9B and 12 in terms of meeting the project purpose and need to provide a reliable year-round water supply to the Mendota WA. 9-3, cont'd

One of the purposes of an Environmental Assessment (EA) is to determine whether an Environmental Impact Statement (EIS) is necessary (40 CFR Part 1501.4(c)). If a decision is made to proceed with a dam alternative, the final NEPA document should describe the rationale and information supporting the agency determination of whether or not to prepare an EIS. 9-4

The San Joaquin River Restoration Settlement of September 2006 established the San Joaquin River Restoration Program (SJRRP) to restore flows and fish to the main stem of the San Joaquin River between the confluence of the Merced River and Friant Dam and provide water supply certainty for farmers and cities in the Friant service area. As a key component of the regional water supply infrastructure, changes to the operation or features of the Mendota Dam and Pool could have significant effects on the ability to meet these SJRRP goals. We recommend the final NEPA document provide a full evaluation of potential effects of the proposed project on the SJRRP, such as effects on the proposed Mendota Pool Bypass, water supply availability for fish, and short- and long-term fish passage. 9-5

We appreciate the opportunity to review this Draft Environmental Assessment. When the final NEPA document is released for public review, please send one (1) hard copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3846 or Laura Fujii, the lead reviewer for this project. Laura can be reached at (415) 972-3852 or fujii.laura@epa.gov.

Sincerely,

Laura Fujii for

Nova Blazej, Manager
Environmental Review Office

Enclosure: EPA Detailed Comments

cc: Chris White, Central California Irrigation District
Cay Goude, US Fish and Wildlife Service, Sacramento, CA
Dan Castleberry, US Fish and Wildlife Service, Sacramento, CA
Roger Guinee, US Fish and Wildlife Service, Sacramento, CA
Mark Littlefield, US Fish and Wildlife Service, Sacramento, CA
Kathy Norton, US Army Corps of Engineers, Sacramento, CA
Russ Bellmer, National Oceanic & Atmospheric Administration Fisheries, Sacramento, CA

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Fax from Laura Fujii for Nova Blazej, Continued

9-4 See Response to Comment 1-2.

9-5 See Response to Comment 1-5(c).

No. 9

EPA DETAILED DRAFT ENVIRONMENTAL ASSESSMENT COMMENTS ON CONVEYANCE OF REFUGE WATER SUPPLY, MENDOTA WILDLIFE AREA, FRESNO, CA, JULY 13, 2007

National Environmental Policy Act Compliance

Describe the basis for the agency determination to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). One of the purposes of an EA is to determine whether an EIS is necessary (40 CFR Part 1501.4(c)).

Recommendation:
If a decision is made to proceed with a dam alternative, we recommend the final National Environmental Policy Act (NEPA) document describe the basis and information supporting the agency determination of whether or not to prepare an EIS.

9-6

San Joaquin River Restoration Program

Evaluate the effects of project alternatives on the San Joaquin River Restoration Program. The San Joaquin River Restoration Settlement of September 2006 established the San Joaquin River Restoration Program (SJRRP) to restore flows and fish to the main stem of the San Joaquin River between the confluence of the Merced River and Friant Dam and provide water supply certainty for farmers and cities in the Friant service area. As a key component of the regional water supply infrastructure, changes to the operation or features of the Mendota Dam and Pool could have significant effects on the ability to meet these SJRRP goals.

Recommendation:
We recommend the final NEPA document provide a full evaluation of potential effects of the proposed project alternatives on the SJRRP, such as effects on the proposed Mendota Pool Bypass, water supply availability for fish, and short- and long-term fish passage.

9-7

Alternatives

Provide a design-level description of project alternatives. There is insufficient detail regarding the alternatives to support the environmental effects conclusions. For example, the Draft Environmental Assessment (DEA) does not provide details regarding the specific footprint of the proposed new dam (Alternative MEN-5), equipment staging areas, or borrow sites by which to verify the conclusion of less than significant effects to wetlands (p. IV-51). Additionally, there is no description of the management measures to ensure the security of the water supply for the Mendota Wildlife Area (Mendota WA) associated with any of the proposed alternatives.

Recommendations:
We recommend the final NEPA document include a design-level description of the project alternatives. These descriptions should include information on the type of dam construction; construction schedule; Federal/local cost-share agreement; funding sources; the actual footprint of the proposed project, equipment staging areas and borrow sites; and the proposed operation of Mendota Pool and Dam. Potential environmental impacts of construction and operation of the proposed

9-8

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Fax from Laura Fujii for Nova Blazej, Continued

9-6 See Response to Comment 1-2.

9-7 See Responses to Comments 1-5(a) and 1-5(c).

9-8 See Response to Comment 1-2.

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new or rehabilitated Mendota Dam and Pool should be included in the final NEPA document. } 9-8, cont'd

We recommend conclusions regarding environmental impacts be clearly supported by information regarding specific alternative components and their effect on terrestrial and aquatic resources, water quality, and air quality. For instance, the final NEPA document should include sufficient detail to support a determination of compliance with applicable regulatory requirements, such as Section 404 of the Clean Water Act. } 9-9

The Draft Environmental Assessment (DEA) states that the replacement or rehabilitated dam would be designed to be retrofitted with a fish passage in the future. The final NEPA document should include specific information on the proposed retrofit design, its cost and engineering feasibility, and a commitment to environmental evaluation and documentation for this future project feature. } 9-10

Because the primary project purpose is to provide a year-round reliable water supply for the Mendota WA, we recommend the proposed alternatives include clear, enforceable measures to ensure continuing water supplies for this purpose. } 9-11

For alternatives which replace or rehabilitate Mendota Dam, include an enforceable commitment to dewater for short and infrequent periods. The Mendota Pool would continue to be dewatered during flushing and maintenance operations under the replace or rehabilitate Mendota Dam alternatives (Alternatives MEN-5 and 7). The DEA states that dewatering can result in a loss of up to 2,500 acres of wetlands in the Mendota WA (p. II-4), especially when the dewatering period is longer than 4 weeks (p. III-4). To realize the desired water supply and habitat benefits for Mendota WA, there would need to be a clear commitment that dewatering periods will be short and infrequent to avoid adverse effects on desirable plant communities (p. III-5).

Recommendation:
If one of the alternatives to replace or rehabilitate the dam is selected as the preferred alternative, we recommend the final NEPA document provide a clear and enforceable commitment to ensure dewatering periods are of short and infrequent duration. } 9-12

Evaluate alternative Mendota WA water sources that may be made available as part of an agricultural drainage solution. Potential actions to provide a comprehensive agricultural drainage solution for the Westlands Water District (WWD) and the San Joaquin Valley could make additional water available for environmental use.

Recommendation:
We recommend the final NEPA document provide more information on potential future refuge water supplies associated with a comprehensive agricultural drainage solution. } 9-13

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Fax from Laura Fujii for Nova Blazej, Continued

9-9 See Responses to Comments 2-5 and 4-10.

Mitigation is identified as necessary related to potential impacts under each resource area discussion in Chapter IV, Affected Environment and Environmental Consequences, of the EA/IS. In addition, all permits including those required under Section 401 and 404 of the Clean Water Act, as well as all other required federal, state, and local permits will be obtained as required prior to the implementation of the ultimately selected alternative.

9-10 See Response to Comment 1-5(c).

9-11 As stated in the Introduction section of Chapter I, Introduction and Statement of Purpose and Need, of the EA/IS, "3406(d) of the CVPIA requires the Secretary of the Interior to provide reliable year-round supplies of suitable quality, meeting peak season needs, to maintain and improve wetland areas…" Therefore, only alternatives that could reliably convey water supplies and meet requirements detailed in Table II-1, Monthly Water Needs for Mendota Wildlife Area, were considered feasible. Reclamation intends to formalize the delivery of water supply quantities as part of the agreement that will be negotiated with the participating districts/parties.

The EA/IS has been revised to address future dewatering of the Mendota Pool and associated impacts.

9-12 See Response to Comment 9-11.

9-13 See Responses to Comments 1-5(a) and 5-1.

No. 9

Water Resources

Describe potential measures to control the variability of water quality delivered to Mendota WA. Water provided through the WWD facilities (Alternatives MEN-9B and 12) would be similar to the California Aqueduct source. However, this water is subject to mixing with groundwater and irrigation drainage. Thus, the quality of water delivered to Mendota WA would be unknown and likely to vary significantly (p. IV-20). As the largest publicly owned and managed wetland in the San Joaquin Valley (p. II-2) and given the adverse effects of low levels of contaminants, such as selenium, on waterfowl- and wetland-dependent wildlife, it is critical that the delivered water be of the highest quality feasible.

Recommendation:
We recommend the final NEPA document provide a description and discussion of potential measures to reduce the variability of water quality delivered to the Mendota WA. For instance, describe the feasibility of limiting the mixing of poor quality groundwater and irrigation drainage.

9-14

Air Quality

Provide calculations and general conformity evaluation for particulate matter with an aerodynamic diameter less than 2.5 microns ($PM_{2.5}$). The DEA states that $PM_{2.5}$ emissions from construction activities were not calculated because $PM_{2.5}$ de-minimis thresholds have not been established (p. IV-67). The San Joaquin Valley Air Basin is in non-attainment for the Federal and State air quality standards for $PM_{2.5}$ (p. IV-63).

On October 17, 2006, EPA issued a final rule lowering the National Ambient Air Quality Standard (NAAQS) for $PM_{2.5}$, which became effective on December 18, 2006 (71 FR 61144). Specifically, the 24-hour standard for $PM_{2.5}$ was lowered to 35 ug/m^3 from the previous standard of 65 ug/m^3. For conformity evaluations, the revised $PM_{2.5}$ standard of 35 ug/m^3 does not apply until one year after the effective date of nonattainment designations that consider that standard (Clean Air Act Section 176(c)(6) and 40 CFR 93.102(d)). However, conformity evaluations must still be completed for current nonattainment areas designated under the previous standard (Clean Air Act Section 176(c)(5)). As stated above, the project is located in a designated nonattainment area for $PM_{2.5}$ under the previous standard.

Recommendation:
The final NEPA document should provide an emission calculation and general conformity evaluation for $PM_{2.5}$. The revised 35 ug/m^3 daily $PM_{2.5}$ NAAQS, in addition to the 15.00 ug/m^3 annual $PM_{2.5}$ NAAQS, should be used as the threshold for NEPA evaluations and determination.

9-15

3

Fax from Laura Fujii for Nova Blazej, Continued

9-14 The quality of the water supplies that WWD facilities would deliver is suitable for irrigation. The quality may vary but is within acceptable limits for the typical water supplies received by the Mendota WA. The current water supplies meet the water quality standards in the contract with CDFG, and Reclamation is committed to continue to meet those standards.

9-15 The EA/IS has been revised to account for the revised 35 micrograms per cubic meter daily particulate matter less than 2.5 micrometers in aerodynamic diameter ($PM_{2.5}$) standard. The emission calculations presented in Table IV-17 have been revised to include $PM_{2.5}$. In addition, the conformity evaluation has been updated to include $PM_{2.5}$ by using the attainment designation for the previous standard (which is nonattainment). Tables IV-15 and IV-16 were revised to include the $PM_{2.5}$ de minimis threshold and the $PM_{2.5}$ regional emissions inventory.

No. 9

General comments

Evaluate the effects of actions to provide agricultural drainage service to WWD on Alternatives MEN 9B and 12, which would use WWD infrastructure for delivery of refuge water. It is our understanding that discussions are ongoing regarding actions to provide a comprehensive agricultural drainage solution for the WWD. These actions could significantly modify the operations and infrastructure of WWD.

Recommendation:
We recommend the final NEPA document evaluate the effects of proposed agricultural drainage solutions on the WWD facilities that may be used to provide a reliable water supply to Mendota WA.

9-16

Provide information on the determination to include this project under the 1999 Biological Opinion. The DEA states that the action presented in this EA will be covered under the 1999 Biological Opinion (BO) that concluded Endangered Species Act (ESA) Section 7 consultation on refuge water supply conveyance projects in the San Joaquin Valley, including an earlier version of this project. This project would be covered by this BO by a letter appended to the 1999 BO (p. IV-41).

Recommendation:
We recommend the final NEPA document provide information on the determination to include this project under the 1999 BO. For instance, describe the 1999 water supply conveyance proposal, 1999 environmental conditions, terms and conditions of the 1999 BO, and the basis for including this project under the 1999 BO. We recommend considering reconsultation for this project, especially if the dam replacement or rehabilitation alternatives are pursued.

9-17

Describe the relationship of this project to the 2002 Draft Environmental Assessment on Conveyance of Refuge Water Supply for the Mendota Wildlife Area. In July 2002, EPA received a DEA entitled "Final Conveyance of Refuge Water Supply for Mendota Wildlife Area." The current DEA does not describe the 2002 DEA or its relationship to the current proposed action.

Recommendation:
The final NEPA document should describe the relationship, if any, of this action with the proposal in the 2002 DEA and the outcome of this previous DEA.

9-18

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Fax from Laura Fujii for Nova Blazej, Continued

9-16 See Responses to Comments 1-1 and 5-1.

9-17 See Response to Comment 2-5.

9-18 The 2002 Draft Environmental Assessment was rewritten to focus on the needs of Mendota WA in accordance with Reclamation's authority under CVPIA.

No. 10

From: "William Loudermilk" <WLouderm@dfg.ca.gov>
To: <cwhite@ccidwater.org>, "John McCamman" <JMCCAMMAN@dfg.ca.gov>, <hcandee@nrdc.org>, <schedester@sbcglobal.net>
Date: 7/31/07 11:04:37 AM
Subject: Re: Comments on Draft EA/IS on Refuge Conveyance (Mendota Dam)

Thanks Hal. One begins to wonder if there is ever to be a good time for some form of this project. That aside, I'd like the opportunity for a select group of affected parties to sit together and brainstorm what a more viable project may entail. This "wrong rock" cycle isn't working well for us } 10-1

-----Original Message-----
From: "Candee, Hal" <hcandee@nrdc.org>
Cc: bobker, gary <bobker@bay.org>
Cc: Vorster, Peter <vorster@bay.org>
To: White, Christopher <cwhite@ccidwater.org>
To: McCamman, John <JMCCAMMAN@dfg.ca.gov>
To: Loudermilk, William <WLouderm@dfg.ca.gov>
Cc: <CJACHENS@mp.usbr.gov>
Cc: <scervantes@mp.usbr.gov>
Cc: Poole, Kate <kpoole@nrdc.org>
Cc: Schmitt, Monty <mschmitt@nrdc.org>
To: <schedester@sbcglobal.net>

Sent: 7/31/2007 8:45:23 AM
Subject: Comments on Draft EA/IS on Refuge Conveyance (Mendota Dam)

Attached please find a copy of the comments by NRDC and The Bay Institute on the referenced Draft EA/IS.
Hal Candee

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Email from William Loudermilk, California Department of Fish and Game, Dated July 31, 2007

10-1 Comment noted.